MT LEGISLATIVE HISTORY

Chapter 648 1979

Bill H 461 S _____ Original bill & hist. ___C

H. Committee on	Taxation		S. Committee on	Judiciary	
Hearing Date(s)	Feb 06	✓C	Hearing Date(s)	Mar 29	✓C
House Judiciary	_____	___C		_____	___C
Feb 12 ✓	_____	___C		_____	___C
Feb 13 ✓	_____	___C		_____	___C
Date Out	Feb 06	✓C		Mar 30	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 461

INTRODUCED BY D. Bertelsen

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS AND PENALTIES RELATING TO THE COLLECTION OF THE INDIVIDUAL INCOME TAX; ADOPTING "PURPOSELY" AND "KNOWINGLY" AS THE REQUIRED MENTAL STATE; PROVIDING THAT AN ATTEMPT TO EVADE THE TAX IS A FELONY; SETTING VENUE FOR ALL PROSECUTIONS IN LEWIS AND CLARK COUNTY; PROVIDING FOR A PERIOD OF LIMITATION FOR PROSECUTION; AMENDING SECTIONS 15-30-101, 15-30-145, 15-30-209, 15-30-224, AND 15-30-321, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-101, MCA, is amended to read:

"15-30-101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Department" means the department of revenue.

(2) "Dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends as herein defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(3) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

(4) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

(5) "Information agents" include all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

(6) "Knowingly" is as defined in 45-2-101.

~~(6)~~(7) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

~~(7)~~(8) "Paid", for the purposes of the deductions and

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credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(9) "Purposely" is as defined in 45-2-101.

~~(8)~~(10) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(9)~~(11) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

~~(10)~~(12) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(11)~~(13) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(12)~~(14) "Taxpayer" includes any person or fiduciary,

resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

Section 2. Section 15-30-145, MCA, is amended to read:

"15-30-145. Revision of return by department -- examination of records and persons. (1) If, in the opinion of the department, any return of a taxpayer is in any essential respect incorrect, it may revise such return. If any taxpayer fails to make return as herein required, the department is authorized to make an estimate of the taxable income of such taxpayer from any information in its possession and to audit and state an account according to such return or the estimate so made by it for the taxes, penalties, and interest due the state from such taxpayer. Except in the case of ~~willfully~~ a person who purposely or knowingly files a false or fraudulent return ~~with intent to evade the tax~~ violating the provisions of this chapter, the amount of tax due under any return shall be determined by the department within 5 years after the return was made and the department thereafter shall be barred from revising any such returns or recomputing the tax due thereon, and no proceeding in court for the collection of such tax shall be instituted after the expiration of said period, notwithstanding the provisions of 15-30-322. In the case of a ~~willfully~~ person who purposely or knowingly files a false or fraudulent return violating the provisions of this

chapter, the amount of tax due may be determined at any time after the return is filed and the tax may be collected at any time after it becomes due and, where no return has been filed, the tax may be assessed at any time.

(2) The department, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of taxable income of any person where information has been obtained, may also examine or cause to have examined by any agent or representative designated by it for that purpose any books, papers, or records of memoranda bearing upon the matters required to be included in the return and may require the attendance of the person rendering the return or any officer or employee of such person or the attendance of any person having knowledge in the premises and may take testimony and require proof material for its information, with power to administer oaths to such person or persons."

Section 3. Section 15-30-209, MCA, is amended to read:

"15-30-209. Violations by employer -- penalties and remedies. (1) If any employer shall fail to pay over to the state the tax deducted and withheld under the provisions of 15-30-201 through 15-30-208 or shall fail to file or furnish any statement provided for within the time prescribed therefor, the same additions to the amount of such tax shall be imposed and added as those specified in 15-30-321, as

amended, with respect to failure to make a return of income or to pay any income tax, and any individual, corporation, or partnership or any officer or employee thereof who, with intent to evade any tax or any requirement of 15-30-201 through 15-30-208, or who, with like intent, files or supplies any false or fraudulent statement or information shall be liable to the same penalties as those imposed by 15-30-321, as amended, with respect to filing or supplying any false or fraudulent statement or information with respect to income taxes.

(2) All of the remedies available to the state for the administration, enforcement, and collection of income taxes shall be available and shall apply to the tax required to be deducted and withheld under the provisions of 15-30-201 through 15-30-208."

Section 4. Section 15-30-224, MCA, is amended to read:

"15-30-224. Failure to withhold or pay -- penalties. If any withholding agent knowingly fails to withhold or pay to the department any sums required to be withheld and paid by 15-30-221 through 15-30-228 or any order made pursuant to 15-30-221 through 15-30-228, the same additions to the amount of such tax shall be imposed and added as those specified in 15-30-321, as amended, with respect to failure to make a return of income or to pay any income tax. Any individual, corporation, or partnership or any officer or

employee thereof who, with intent to evade any tax or any requirement of 15-30-221 through 15-30-228, or who, with like intent, files or supplies any false or fraudulent statement or information shall be liable to the same penalties as those imposed by 15-30-321, as amended, with respect to filing or supplying any false or fraudulent statement or information with respect to income taxes."

Section 5. Section 15-30-321, MCA, is amended to read:

"15-30-321. Penalties for violation of chapter. (1) If any person, without ~~intent to evade~~ purposely or knowingly violating any ~~tax~~ requirement imposed by this chapter, fails to file a return of income on or before its due date (determined with regard to an extension of time granted for filing the return), there shall be imposed a penalty of 5% of any balance of tax unpaid with respect to such return as of its due date, but in no event shall the penalty for failure to file a return by its due date be less than $5. The department may abate the penalty if the taxpayer establishes that the failure to file on time was due to reasonable cause and was not due to neglect on his part. If any person, without ~~intent to evade~~ purposely or knowingly violating any ~~tax~~ requirement imposed by this chapter, fails to pay any tax on or before its due date (determined with regard to an extension of time granted for the filing of a return), there shall be added to the tax a penalty of 10% of

said tax, but not less than $5, and interest shall accrue on the tax at the rate of 9% per annum for the entire period it remains unpaid. The department may abate the penalty if the taxpayer establishes that the failure to pay on time was due to reasonable cause and was not due to neglect on his part.

(2) If any person fails, ~~with intent to evade~~ purposely or knowingly violating any ~~tax~~ requirement imposed by this chapter, to make a return of income or to pay a tax if one is due at the time required by or under the provisions of this chapter, there shall be added to the tax an additional amount equal to 25% thereof, but such additional amount shall in no case be less than $25, and interest at 1% for each month or fraction of a month during which the tax remains unpaid.

(3) Any individual, corporation, or partnership or any officer or employee of any corporation or member or employee of any partnership ~~who, with intent to evade any tax or any requirement of this chapter or any lawful requirement of the department thereunder,~~ purposely or knowingly fails to pay the tax or to make, render, sign, or verify any return or to supply any information within the time required by or under the provisions of this chapter or who, with like intent, makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information shall be liable to a penalty of not more than

$1,000, to be recovered by the attorney general in the name of the state by action in any court of competent jurisdiction, and shall also be guilty of a misdemeanor and shall upon conviction be fined not to exceed $1,000 or be imprisoned ~~in the county jail~~ not to exceed 1 year, or both, at the discretion of the court.

~~(4) The certificate of the department to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied as required by or under the provisions of this chapter shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied.~~ An individual, corporation, or partnership or an officer or employee of a corporation or a member or employee of a partnership who purposely or knowingly attempts in any manner to evade or defeat a tax imposed by this chapter or the payment thereof is, in addition to other penalties provided by law, guilty of a felony and upon conviction thereof is punishable by a fine not to exceed $5,000 or by imprisonment for a term not to exceed 5 years, or by both such fine and imprisonment.

(5) The certificate of the department to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied as required under the provisions of this chapter is prima facie evidence

that the tax has not been paid, the return has not been filed, or the information has not been supplied."

NEW SECTION. Section 6. Venue. A prosecution of an offense under 15-30-321 must be tried in the district court for Lewis and Clark County.

NEW SECTION. Section 7. Time limitations for prosecution. A prosecution for an offense under 15-30-321 is subject to the following periods of limitation:

(1) A prosecution for a misdemeanor must be commenced within 5 years after the offense is committed.

(2) A prosecution for a felony must be commenced within 10 years after the offense is committed.

Section 8. Effective date. This act is effective on passage and approval.

-End-

HB 461

The Department of Revenue equipment includes several different makes of computers and each would have to be reprogrammed - several different languages are used.

Mr. Hutchinson said some classes have a much finer breakdown than others.

Rep. Bertelsen asked if in certain counties employment of one or more individuals would be required. Hutchinson said maybe for 3 or 4 months.

Rep. Fabrega said 15 counties have computers and most of the taxable value of the state is located in these counties. Might consider implementing those with computer potential and Rep. Harper agreed. Rep. Fabrega said the Department of Revenue wouldn't do this and it would have to be handled through them by contract with the company who makes the computer. This would have very little impact on the county as it would be covered, altho the information would have to be prepunched.

Representative Verner Bertelsen, sponsor for House Bill 461 at the request of the Department of Revenue, explained this bill in accordance with copy of his testimony attached. Essentially it adopts the "knowingly" and "purposely" mental states utilized by the criminal code for violations relating to collection of income tax.

HOUSE BILL 461

Calvin Simshaw, Department of Revenue, explained Rep. Bertelsen's testimony might relate to an earlier or later bill and some sections might be numbered differently. He stated that a trend has developed in the last few years and an organized effort to avoid filing informative income tax returns is prevalent. The Department of Revenue is getting returns with no valid information on them - getting all kinds of constitutional arguments and other trivia to eliminate payment of income taxes. He thinks the only way to reverse this trend is to go after these people. They aren't presenting any legally valid arguments for filing their returns as they do. HB 461 simply changes language defining "intent" and is drafted with terms with which courts are familiar, understand, and are comfortable. This bill does adopt felony procedures and establishes venue in Lewis & Clark County. Many pretrial motions have had to be held and are costly to the state.

No statute of limitations says when the department can prosecute. They have one year in which to check income tax returns to learn if someone should have filed - HB 461 establishes 5 years for a misdemeanor charge and 10 years for a felony.

There were no opponents.

In closing Rep. Bertelsen said there is a definite need for this legislation because of this growing trend of avoidance. The state needs the tools with which to check this problem.

The question of inconveniencing the defendants arose - somebody is going to be inconvenienced in any event. Felony was added because some of the

taxes not paid were in the thousands of dollars when checked out. The suggestion that 5 years time would be enough in which to investigate and bring any necessary charges for either a misdemeanor or felony was suggested by Rep. Lien. There is cooperation between the federal IRS and the state IRS regarding exchange of information on problems.

Senator Hager, sponsor of Senate Bill 147, said this bill would define "poultry" for the codes, and since there was a need for a definition of "agricultural" in the codes, SB 147 includes such a definition.

SENATE BILL

147

There were no opponents.

The question of including game birds in the definition arose. Reference to farms raising pheasants for shooting on game farms was discussed.

Committee went into executive session.

Rep. Bertelsen moved Senate Bill 147 BE CONCURRED IN. Rep. Dozier moved to include birds raised for game purposes. Amend line 17 by adding "or for game purposes". Motion failed 2-17. Reps. Dassinger and Fagg voted Yes. Motion BE CONCURRED IN carried unanimously.

Rep. Robbins moved House Bill 457 DO PASS. After discussion on the question of funding, and as to which counties should be included, a subcommittee was appointed - Reps. Lien and Sivertsen. Rep. Robbins withdrew his motion.

Rep. Lien moved House Bill 461 be amended to have the statute of limitations be 5 years for both misdemeanor and felony charges. He withdrew his motion after it was suggested that this bill might be more in the jurisdiction of the Judiciary Committee than that of Taxation. Rep. Nordtvedt recommended that in Section 6 the venue be changed to that of the person who is being charged. Rep. Fagg moved HB 461 be transferred to the Judiciary Committee with the recommendation the concept is approved by the Taxation Committee, but without recommendations of specific elements. Rep. Bertelsen would rather specify concerns of the Taxation Committee. Rep. Burnett moved for all motions pending that the Taxation Committee proceed to act formally without any reference to the Judiciary Committee. A roll call vote failed 7-9 with three members absent.

Rep. Williams moved HB 461 with no specific recommendations, but that the general concept is approved by the Taxation Committee, be referred to the Judiciary Committee. Motion was approved by a roll call vote of 13-3 with three absent.

Rep. Robbins moved House Bill 430 DO NOT PASS. Motion carried with Rep. Vinger voting "no".

as amended. Representative Uhde suggested that the fine be mandatory and the jail sentence at the discretion of the judge. There was general discussion about making the jail sentence mandatory.

Representative Curtiss moved to amend page 1, line 15, by striking "may" and inserting "shall". The motion carried with Representative Holmes voting "no". Then followed discussion about what Representative Gould actually wanted the bill to do. Representative Scully went to ask what the intent was to be. Mr. Gould wants the fine mandatory and the jail sentence discretionary.

Representative Curtiss moved to amend the title by striking "shall" and inserting "may". The motion carried.

Representative Keyser moved "do pass as amended". The motion carried with the vote unanimous.

HOUSE BILL NO. 461: The committee voted to send a letter as to their recommendation.

There was no further business to come before the committee and the meeting adjourned at 11:25 a.m.

John P. Scully, Chairman

JPS:mec

JUDICIARY COMMITTEE
EXECUTIVE SESSION
February 13, 1979

The executive meeting of the House Judiciary Committee was called to order following the regular meeting on Tuesday, February 13, 1979 in room 436 of the Capitol Building. Representative Holmes and Seifert, and Conroy were absent and came in later. The meeting was called to order by Chairman Scully at 8:35 a.m.

HOUSE BILL NO. 422: Representative Lory moved to amend. The motion carried with the vote unanimous. (copy attached) Representative Lory moved "do pass as amended" and the motion carried with the vote unanimous.

HOUSE BILL NO. 500: Representative Lory moved to amend and the motion carried with the vote unanimous. (copy attached) Representative Lory moved "do pass as amended" and the motion carried with the vote unanimous.

HOUSE BILL NO. 278: Representative Keedy presented prepared copies of Representative Bardanouve's amendments to the committee. He spoke to the amendments and explained them. Representative Day moved to adopt the amendments. The motion carried with the vote unanimous.

Representative Keedy moved to amend page 2, line 4, by striking "less" and inserting "fewer". The motion carried with Representative Eudaily voting "no".

Representative Keedy moved "do pass as amended" and the motion carried with the vote unanimous.

HOUSE BILL NO. 586: Representative Lory led discussion and moved to reinsert the old political libel language that had been taken out during recodification. The motion carried. Representative Teague moved to table his bill so that the old language would be included in a committee bill and would reinstate the old language. The motion carried with the vote unanimous. A letter will be written to Dave Cogley at the Legislative Counsel asking for the committee bill.

HOUSE BILL NO. 148: This bill has been tabled and is being included in a committee bill. Representative Keyser moved to adopt a committee bill prepared by Larry Weinberg, after study and approval of the Judiciary Committee. The motion carried with the vote unanimous. A letter of intent will be included.

HOUSE BILL NO. 461: Representative Keyser moved to strike on page 10, line 3 in its entirety. The motion carried with Representatives Keedy and Daily voting "no".

Representative Lory moved to amend page

10, line 10 by changing the 5 to 3 and the 10 to 5. The motion carried with the vote unanimous. Representative Lory moved to amend on page 9, line 16 that the attempt to evade be put back to a misdemeanor and the evasion of taxes a felony. This motion carried with the vote unanimous.

Representative Keyser moved these recommendations be adopted and presented to the Taxation Committee as they had requested. This bill was referred to Taxation from the Judiciary Committee. The motion carried with the vote unanimous. (copy of recommendations attached)

HOUSE BILL NO. 618: Representative Keedy moved "do pass". Representative Holmes moved to amend the title and page 2, line 21 by reinserting original wording. The motion carried with Representatives Keedy, Teague and Iverson voting "no".

Representative Daily moved to amend page 2, line 10 by striking the new language and inserting the original language. He spoke to his motion. The motion carried with Representatives Keedy,, Keyser and Eudaily voting "no".

Representative Uhde moved to amend page 4, line 18, to strike the section numbers, since they would no longer apply. The motion carried with the vote unanimous.

Representative Keyser moved "do not pass as amended". The motion failed.

Representative Day moved "do pass as amended". The motion carried with Representatives Keyser, Holmes, Eudaily and Lory voting "no".

HOUSE BILL NO. 620: Representative Lory moved "do pass". The motion carried with the vote unanimous.

HOUSE BILL NO. 560: Representative Scully appointed a sub-committee to study the bill and the amendments presented by the sponsor and plug them in. The following members were appointed: Representative Kemmis, Chairman; Representative Keedy, Uhde Lory and Keyser.

HOUSE BILL NO. 355: There was discussion as to whether it should be revived. A committee bill is being drafted that will include the intent of this bill. Mr. Scully

February 13, 1979

Representative Herb Huennekens
Committee on Taxation
House of Representatives
Capitol Building

Dear Chairman Huennekens:

The House Committee on Judiciary after reviewing House Bill No. 461 submits the following recommendations.

1. evasion of taxes as provided for in 15-30-321(3) be made a felony,

2. an attempt to evade taxes in 15-30-321(4) be made a misdemeanor,

3. new section 7, relating to venue be deleted,

4. the statute of limitations for a misdemeanor, a new section 7 be changed from 5 years to 3 years and the statute of limitations for a felony as provided in new section 7 be changed from 10 years to 5 years.

If you have any questions on the recommendations, please feel free to contact the committee.

Sincerely,

John P. Scully,
Chairman

JPS:mec

CONSIDERATION OF HOUSE BILL 461:

Representative Bertelsen gave an explanation of this bill, which is an act to revise the laws and penalties relating to the collection of the individual income tax; adopting "purposely" and "knowingly" as the required mental state; providing that an attempt to evade the tax is a felony; setting venue for all prosecutions in Lewis and Clark County; providing for a period of limitation for prosecution, etc. He stated that he took this bill for the Department of Revenue as he felt that the department is an employee of the state and needs the best tools available. He said there are a number of instances where people are refusing to file returns or are filing fraudulent returns. He stated that this is a definite threat to the implimentation of the act. He also said that it often takes more than one year to discover that a tax form has not been filed.

Cal Simshaw, from the Department of Revenue, stated that they are currently running into several instances in which tax payers are failing to file returns or are filing fraudulent returns. He testified that a lot of what they receive is what is called the fifth amendment returns. He said this is done a regular return form but contains no income information, it uses an asterik on the face and the individual states that he does not have to provide information because of the fifth amendment rights. He said that there are numerous pages of "canned" material and this contains essays, court cases, excerpts from newspapers, also, for some reason, four photographs of aborted fetuses; some have a statement they were not paid in gold or silver and did not receive any income. (See sample of form attached.)

He stated there is a problem procedurally - that the criminal procedure has laid dormant for over forty years and several problems have arisen. He stated that this would make it a felony and this is the same as under federal law except the penalties under federal statutes are more severe. He said that it takes time to even find out if a person is not filing.

There were no further proponents.

William Dee Morris, representing himself as an attorney, stated that he has tried most of these cases against the Department of Revenue, and he has tried cases all over

the United States involving tax loss. He testified that he represented Jack Gehring and offered the brief used for this case. (See Exhibit A.) He stated that he was given two years in jail for not paying six months of taxes. He asked if you need time in jail to collect money from a citizen. He said that the argument is reduced to this: if you have a disagreement with us, we are going to throw you in jail. He stated that this bill is vague and uncertain. He also exclaimed that we have a right to object but if we object, we go to jail - no due process. He stated that a tax due is a personal debt and you can't put a person in jail for personal debt and the committee should read the declaration of independence where it says that. He commented that there are all kinds of ways to do this under civil procedure and this gives them due process. He exclaimed that these are not the kinds of citizens that belong in jail, they are productive citizens who have paid their way, it is aimed at us who have been denied our rights, and if we voice our objections, we should not have to go to jail for this; this is designed to put political opponents in jail.

Bob Christenson, stated that he was one of the persons who has been a defendant, and he believes we have the right to state our objections in what they feel is a legal way to do so. He says he has a political opposition to the present tax structure and he has said so. He commented that he is not saying that he is all right, but he could be wrong by doing nothing.

John Lewis, representing himself and others, Box 509, Boulder, Montana, read a prepared statement. (See Exhibit B.)

Wally Walleshesto from Butte, Montana, stated that they are pretty decent people, they work hard, pay high rent, and that they were fifth amenders and he said that there are 20 million tax resisters in the country. He said they would rather flush money down the toilet or burn it than support this type of government and he asked the committee to please have respect for them as they are citizens just like you.

Bob Crane, representing himself and the Freedom Church, stated that he has lived 17 years in Helena, graduated from M.S.U. and is currently a businessman and minister here in Helena. He stated that tax resistence is a social movement

and it is spreading all across the country and he was impressed with the calibre and the sincerety of the people involved in this movement and he is very concerned about what is happening in America today. He explained in connection with the pictures of the aborted fetuses, that they object as Christians to being forced to pay through their taxes for them and the government supports these murders. He stated that this is only one small area of concern of these people - they are sincerely and devotedly concerned about this country.

He stated that Jack Gehring could have had a $20,000.00 fine and twenty years in the state prison. He was convicted on four counts. He stated that as a sociologist, a Christian and a minister, this really bothers him; and he stated that these people are trying to do something about it. He stated that these people are trying to do something about it, they know what the law is, they are subject to penalties, but they still put it on the line. He said they are concerned about constitutional preservation and they would like to live by the constitution. He also said that the Department of Revenue has plenty of recourse under civil law.

He submitted to the committee copies of "The Communist Manifesto, and read from page 25, "in the most advanced countries the following will be pretty generally applicable:.. 2. A heavy progressive or graduated income tax." and they will create conditons that will become conducive to their overthrow. He also gave the committee copies of the constitution of the United States and the Declaration of Independence.

Representative Bertelsen stated that these are hard decisions and he said that he, in no way, questioned the sincerety of the people who are here but he does question the outcome of this type of movement. He said this could affect people in institutions, the disabled, those that are sick and he wondered what would happen if we assume the right to choose what we will or will not support. He said that if we do not financially support the decisions of our government, we effectively destroy that government.

Senator Towe questioned Mr. Simshaw as to what comment he would have as to the point these people are making that in fact, the civil procedure would be quite sufficient. Mr. Simshaw said that he did not feel that these were adequate at this point; these individuals that are not bothering to file returns, it is impossible for the state and it puts the burden on the state. He stated that if they do not have some starting place such as a return, it is impossible to start.

Senator Towe asked about a felony just to not file a return. He also wondered how do you handle the war protestors - people who refused to pay because they were conscientious objectors and were opposed to war. Mr. Simshaw said that he thought they should handle that civilly and would make every attempt to handle civilly.

Senator Brown said that if you only have a civil remedy, and every year you have to file a civil action on them to collect their taxes, what about the second or third time around.

Senator Anderson asked if this law parallels the federal law. Mr. Simshaw said yes, it is almost identical, but their penalty is stiffer.

Senator Towe asked about the legal tender people - he said there is a provision in the constitution that says no state shall make anything but gold and silver coins a tender in payment of a debt. He wondered what they did about those people. Mr. Simshaw said that he still would say that a civil action would be fine. Senator Towe asked how about year after year. Mr. Simshaw said that he was most aware of their arguments and they are intentionally not paying their taxes.

Senator Towe said that he had problems placing criminal penalties on people who are following their conscience.

Senator Turnage asked what is wrong with the present criminal law. Mr. Simshaw said that Jack Gehring was given six months on four counts - two years is what he was given - he altered his return and blatently misrepresented his accounts.- just like a teenager who goes out and steals $1,500.00.

Senator Brown asked what did Judge Bennet rule on the statute of limitations. Mr. Simshaw said that he ruled that the general misdemeanor statute of limitations applied. He said that he is sure this question is going to rise again and that is why they need a definite statement.

Senator Turnage said why not make it for 25 years or the same as for murder.

Senator Turnage said on page 9, lines 15 and 16, this is not in the old law, "purposely or knowingly attempts in any manner to evade or defeat". and he questioned prima facie evidence, that applied to misdemeanors and now you have it apply to a felony. He also questioned on page 4, lines 14 through 16 and said at least the standard was an attempt to evade in the old law - criminal definition of knowingly - you did not have to have any intent at all. He also questioned some procedures used in some circumstances.

There were a few more questions and comments on this bill and the hearing was closed.

There being no further business, the meeting was adjourned at 11:00 p.m.

SENATOR EVERETT R. LENSINK, Chairman
Senate Judiciary Committee

Date 3/29/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Gage, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

Please sign above and indicate the bill you are for or against

DATE March 6, 1991

COMMITTEE ON Judiciary - Senate

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
Gary J. Hammond	Lobbyist			
Jim Lewis	Self - Revenue	HB1		✓
Cal Simshaw	Department of Revenue	HB1	✓	
R Bruce McLeod	E & J	HB1	✓	
Steven L Dietz	Comm. - H.B. No. 1	HB1	✓	
Rob Robinson	Dept of Rev - Legal	HJR44	✓	
John Mudgett	Alaska Independents	HJR44	✓	
Pete Lamm	National Distillers	HB108	✓	
Ed Pursell	Rep	HJR44	✓	
Bob Grace	Self and Freedom Church	HB421		✓
[illegible]	Self	HB 761		✓
Marlies Mavis	Self as attorney	HB1		✓

Exhibit A

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STA
OF MONTANA, IN AND FOR THE COUNTY OF LEWIS & CLARK.

IN RE: THE PETITION OF JACK B. GEHRING, FOR A WRIT OF HABEAS CORPUS.

JACK B. GEHRING Relator,

vs.

RICK WESTLUND, Respondent.

42159

BRIEF IN SUPPORT O
PETITION FOR WRIT.

A hearing on the original petition and as It was amended
had by this Court, Judge Robert Boyd presiding, March 10, 1978.
Evidence was presented by Relator, and the Court ordered briefs
to be submitted by March 24 on behalf of relator.

Jack B. Gehring was tried by a jury and convicted of numer
(but minor and minisucle) purported violations of the Montana S
income tax provisions. The sentence and judgement of the Court
of record and reflect the coercive power of government to destro
good and decent citizens by the power of taxation; much of the
legal issues raised at trial are still to be decided on appeal.
this matter Relator shall restrict his argument and law to issue
raised in his petition for a Writ of Habeas Corpus.

HISTORICAL SETTING.

We speak often in Court and political rhetoric of the cour
forsight and vision of our "Founding Fathers"; our constitutiona
form of government; the inalienable rights of each citizen; the
equality of the law; the fairness of application of the law; due
process and equal protection; human rights, a subject of world
wide attention due to the fact that our President and this nation
has mounted a world wide attack on denial of human rights by OTHE
governments, neglecting to mention our own, of course. Throughou
our national history, time and again, the citizens of this nation
have raised the cry, " the power to tax is the power to destroy".

Exhibit A (866)

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sentence AS PREPARED BY THE PROSECUTOR, the Court did revoke the remainder of the suspended sentence.

AT NO TIME WAS JACK GEHRING REPRESENTED BY COUNSEL, AND AT NO TIME DID JACK GEHRING WAIVE HIS RIGHT TO COUNSEL.

THE COURT ADMITS IN ITS SENTENCE THAT IT HAD THE PROSECUTOR PREPARE THE SENTENCE AND JUDGEMENT, THUS THE COURT ABDICATED AND SURRENDERED ITS EXCLUSIVE DISCRETIONARY POWER TO FIX PUNISHMENT.

(see lines 29-31 pg.1 of sentence.)

RIGHT TO COUNSEL.

ARGERSINGER V. HAMLIN - -quoted in Writ together with the rule There ARE NO EXCEPTIONS.

The record reflects that Gehring had no counsel at any time during the proceedings had in this matter until present counsel agreed to represent Gehring for purposes of this writ only. Fees were paid by donations.

1.

There can no longer be any question anywhere in this nation that a citizen charged with criminal conduct is entitled to be represented by counsel AT ALL STAGES OF THE PROCEEDINGS.

a. A citizen is entitled to counsel and if he be a rich man and can afford counsel, seldom does such a citizen reside in jail.

b. If he be a poor man and cannot afford counsel, the Court MUST appoint counsel; the philosophy being that if a rich man can evade jail by having a lawyer, then it is grossly unfair that a poor man go to jail for the lack of counsel.

c. Then we come to Gehring's case: In order to obtain Court appointed counsel Gehring was obliged to fill out a "form" to prove that he was a poor man and thus "entitled" to free counsel by Court appointment. In order to fill out this form, Gehring would have been obliged to declare facts relating to money matters, property ownershi

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income, expenses, etc.; each fact revealed applies directly to the case at hand before the Court. Compulsory disclosures, waiving all Fifth amendment rights, fourth amendment rights on searches and seizures, and rights to privacy guaranteed by both the U.S. Constitution and the Montana State Constitution.

The Garner case (supra) forbids such compulsory disclosures. In spite of his lack of counsel to guide him through this maise of irregularities, Gehring did manage to preserve his fifth amendment rights to a degree (although the Court did find a money judgment even though uncontested and unlawful); and did manage to get throug the mock trail and get convicted and go to jail. Had the prosecutc specifically designed a proceedure to imprison citizens and impose coercive and oppressive tax collecting measures, such a proceedings as this one would be and is ideally suited for such purposes.

2.

In a different context: The Sentence recites - -
The defendant is found guilty of - - intentionally failing to

a. pay the tax,

b. or make,

c. orrender,

d. or sign,

e. or verify any return,

f. or supply any information,

g. within the time required,

h. or under provisions - - -

The sentence further recites that the jury found Gehring guilty of each of these violations and he is guilty of each violation. Thus, if six months sentences are imposed for each of the above asserted violations (eight in number) times four separate counts, we then have 32 years in jail and $32,000.00 in fines. This is, seemingly, a possible maximun sentence for a misdemeanor, and Gehring without counsel, for, as the prosecutor says, all Gehring had to do to get

Court appointed counsel was to fill out a form divulging all the facts necessary for conviction; and he had to fill out this form BEFORE he gets counsel.

This is a money case on criminal tax evasion. Gehring cannot be obliged to insure his conviction in order to get counsel to try and prevent conviction.

Here then lies another dillemma: The prosecutor, particularl in this case, creates another, separate and distinct class of citiz one class- -the very rich who can afford counsel and all the trappi another class- -the poor who cannot afford any counsel and are in a position to fill out the forms declaring so. the third class- -Middle class America, that group of citizens upon who fall all the burdens of taxation and costs of government and now hire their own lawyers or, go t trial at their peril.

Query: Is that classification justified? Gehring asserts su classification is not justified. Reason?

The national news is filled with complaints made by farmers and ranchers that if they are not already broke, they are going broke. Gehring stated he could not afford counsel, and knowing the cost of counsel he was probably correct. But, the vital point here that Gehring's word that he could not afford counsel was summararil and arbitrarily denied when he refused to divulge facts relating to his private,personal, money matters; facts that go right to the hea of the tax issue before the Court upon which he was being charged criminally.

3.

Another anamoly appears: The law says in one place that we a all presumed to know the law and therefore any violation of the law is known to the law breaker and his criminal intent thus established On the other hand, all cases relating to right to counsel state that the law is such a mystifying and complex matter that any and all citizens charged with crimes are entitled to Counsel at all stages o the proceedings IN ORDER TO PROTECT CITIZENS who know not the law.

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There can be but one remedy when the sovereign oversteps the bounds of law: That remedy is to remove the temptation from the prosecutor (and judges) by depriving the sovereign of the fruits of its unlawful act. The search and seizure cases are replete with application of thi remedy.

In this case, the lack of counsel, the denial of counsel, the refusal of the State or the Court to appoint such counsel, is of such serious consequences that the only remedy that can be effective, is to declare the prosecution and conviction unlawful and set the conviction aside.

MONTANA INCOME TAX LAW UNCONSTITUTIONAL

The terms of the sentence herein complained of, together with the reading of the tax code, Sec 84-4901 et seq, clearly point out that the use of that tax code in this prosecution and sentencing violate many constitutional provisions, such as:

1.

The Judge found a debt due from the taxpayer to the state of Montana. Sec. 84-4904 states that every tax imposed by this act - - -shall be- - a personal debt from the person to the state of Montana.

a. Thus, by law, the finding of a tax due from a taxpayer to the State of Montana, is the finding of an ordinary personal debt due the State of Montana from the taxpayer.

b. Art. 2, Sec. 27, Montana Constitution prohibits imprisonment for debt. The exceptions do not apply here.

c. The sentence specifically declares the debt to be due and the Court declared that EVIDENCE PRESENTED BY THE STATE ESTABLISHES THE TAX THAT IS DUE, and the amount. Then the Sentence pronounced by the Court states thatif Gehring does not pay the purported debt due the State of Montana, then Gehring goes to jail. Pure and simple, imprisonment for debt. The U.S. Constitution also has things to say about imprisonment for debt and prohibits such imprisonment.

In addition, the factor of privacy and the invasion thereof, is an issue ignored by the Court and prosecutor in this case. The Montana Constitution, Art 2, Sec. 10 dclares the right of privacy to be essential to the well being of a free society.

Either the delegates to the Constitutional convention were a bunch of benighted, ignorant citizens that verily believed that such a provision had some application, or - - -

This Constitutional provision means what it says. The prosecutor and now the Judge obviously believe the mental capacity of the convention members believing in such a concept, was deficient. Publicly available facts relating to governmental invasion of this concept of privacy tend to give a lie to belief in this concept. However, the constitutional provision is there, lie or no lie. We must, then, preforce, grant to this concept more than just a casual glance and then brush it off as inconsequencial. Oddly enough, in light of this case and the sentence imposed, the U.S. Congress also declares the right of privacy to be of some importance, it being of constitutional stature and part of the U.S. laws now, by reason of the Privacy act of 1974.

Public law - 93-579 - The Privacy Act of 1974

Sec. 2 (a) The Congress finds that - -

(4) The right to privacy is a personal and fundamental right protected by the Constitution of the United States; and

(5) in order to protect the privacy of individuals identified in information systems - - - congress must regulate - - -

(a) If then, the right of privacy has some merit for consideration, a study of the sentence herein complained of reveals a some what startling situation.

(1) Pg 6 Par. 2 of this brief dissects a portion of of the sentence. As that paragraph reflects there are eight (8) different and separate acts for which a citizen may be convicted of

a crime (designated separately in that par.) and here:

a. Failing to pay tax - - suppose the taxpayer is broke, i
itute and with no assets. This is a crime?

b. or make any return - Fifth amend. and right of privacy.

c. or render any return - - and waive his rights

d. or sign any return - add purjury to waivers

e. or verify any return, same as above

f. or supply any information - and waive privacy and self incrimination.

g. Within the time is even worse should the tax collector act and make compliance impossible, plus waivers of righ

h. Or under provisions, all unknown, therefore one acts at ones peril. Such is not the law nor the application of availability of inalienable personal, constitutional rig

Garner (supra) states the proposition that if a taxpayer seeks to claim the Fifth Amend. rights he must claim the right. If he fil a return, WITHOUT CLAIMING THE RIGHT, he waives the right.

3.

Montana income tax law requires that the initial figure use to determine income tax due the State is the adjusted gross income from Federal returns. Therefore, the sentence of the Court requir that Jack Gehring have a CPA prepare his federal returns in additi to his state returns. This is completely unlawful and unconstutut Reason: Garner (supra) grants a taxpayer the right to claim the privilege of the Fifth Amend. OTHERWISE, the taxpayer waives his rights. This Gehring will not do, has not done in this matter, an no Court can require him to so waive, therefore Gehring will not comply with the terms of the sentence and cannot be forced to so a

a. Montana Tax laws Sec. 84-4904 provides that the taxpayers adjusted gross income for Montana tax purposes be the adjusted gros income from Federal returns.

b. Deductions and allowances, Sec. 84-4906, refer only to sections of the I RS code for deduction allowances.

3, Cont;

c. In addition, 84-4938 requires a citizen to furnish to the State copies of federal returns and all pertinent data connected therewith

d. THEREFORE, Gehring concludes:

1. The portion of the Sentence and judgment UNDER WHI GEHRING WAS JAILED, (supra) and his failure to comp with that portion of the sentence placed him in a position where compliance may well require Gehring to waive his Fifth amendment rights and privacy ri as those rights relate to his dealings with the Fe government.

2. The Garner case provides that a taxpayer must cla the right or waive it and thus subject himself to possible Federal prosecution, This is not a volu waiver but coerced. However, if Gehring voluntar complied, and was prosecuted in federal court, he has no defense.

4.

The Sentence then obligates Gehring to waive constitutional rights in order to retain his personal freedom.

5.

There is one other factor; at some stage of criminal prosec a citizen-defendant must be afforded the opportunity to assert his rights; this process is called "due process". The State never afforded Gehring a hearing, prior to prosecution, in order that he could assert his claim of privilege. Then the terms of the senten require that Gehring waive rights available to him in possible fut prosecutions.

a. Such a sentence cannot stand the scrutiny of daylight; n could such a sentence have been imposed HAD GEHRING BEEN AFFORDED COUNSEL, as he demanded, and which request was denied, simply beca Gehring refused to sign and prepare a document on indigency, which

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5. cont.

said document in and of itself could well have been all the State needed to convict. By his own pen would he then, have been convicted. Directly contrary to the provisions of the fifth amendment and the rights of privacy.

JURISDICTION.

As stated above this Court has no jurisdiction to order and direct that any citizen waive constitutionally guaranteed rights. This the Sentence does without question.

1.

Administrative due process could easily provide the necessary machinery to protect citizens from the aforesaid claim of Gehring that he was denied due process; but this possibility does not in any way confer jurisdiction on this Court at this time, as no administrative due process is available.

2.

Under Argersinger (supra) the Court had no jurisdiction to try Gehring unless he was represented by counsel; such a constitutionally based requirement, IF DENIED, and a jail sentence imposed, removes any jurisdiction the Court may have acquired.

3.

District Courts, in addition by reason of Art.7, sec.4, -- acquire NO original jurisdiction of misdemeanors, and any statuatory requirements to the contrary, are obviously unconstitutional. This constitutional issue has never been raised as far as Gehring knows, nor decided in Montana.

a. If there be a void in the Constitution relating to jurisdiction, then neither the Courts nor the legislature have the power to "manufacture" or "create" law to fill that void, else there would then be a clear-cut invasion of the doctrine of separation of powers. Art.3,Sec.1, Montana Constitution:

"The power of government of this state is divided into three

distinct branches--legislative, executive, and judicial. No p
or person charged with the exercise of power properly belongin
branch shall exercise any power properly belonging to either o
others, except as in this consitution expressly directed or pe

a. Gehring and his counsel find no such exceptions in t
constitution, but on the contrary - - -

b. Art. 2, Sec. 34, provideds that all unenumerated rig
are retained by the people.

c. Jack Gehring is one of the people and he retains all
unenumerated rights for himself as do all citizens. One
is to be prosecuted ACCORDING TO LAW, not according to t
and caprice of the prosecutor.

4.

This is just another instance where the denial of counsel
itself to be such an evil.

a. In addtion, evidence was presented that proves that o
the"designated" special prosecutors, Corcoran, arranged f
private conference with Gehring, (and so admitted) but h
Corcoran, failed to recite the Miranda warnings. This ac
and failure of the "prosecutor" to follow the law relatin
"Miranda" must so taint this prosecution that any convict
must be set aside by reason of "Miranda".

CRUEL AND UNUSUAL PUNISHMENT.

Gehring complains of numerous legal violations during tri
much of this must be determined on appeal, after the record is
transcribed, if and when Gehring can pay for the same. Again, i
igency and money become the issue; however to the evidence:

a. The Sheriff testified personally that prolonged jail
in the arcaic jail with the primitive conditions existing
in fact cruel and unusual punishment.

b. The prosecutor, this time the proper one, did bring ou
that no one had died from being jailed in the lewis & Cla

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county jail. That may be so, and perhpps we had better just wait until someone does die in jail before the Courts take action to correct jail conditions.

This writer is amazed at the incredible arrogance of the absolute tyrant, that he would even hint that a prior death be the only grounds for complaint. But then Gravely is young and perhaps more susceptable to the urge to grab the reigns of power and ignore citizens, be they convicted or not.

1.

The visiting conditions between counsel and prisoner defy logical explanation. Gravely so attempted for "security" reasons. If that jail is so archaic and lacking in facilities that client and counsel cannot safely be locked up together; their privacy protected from prying eyes and ears of the jailer and thus the prosecutor; then imprisonment inthat jail certainly raised questions relating to the claim of cruel and unusual punishment.

2.

The memorandum of the State, (presented one half hour before the hearing herein commenced) indicates that Gehring CAN be jailed in other facilities. However, the sentence has been handed down, the prosecutor has not appealed, how then can the state now appeal a sentence prepared by It (them)? The state has the obligation to prevent cruel and unusual punishment, not the defendant or citizen. The state prepared the sentence, as It states on its face, not the Judge. The state concocted the coercive element of par. 5 of the sentence, not the Judge nor the defendant.

3.

The Sheriff further testified, as did Gehring, that there are no facilities in the jail for a prisoner to study, have law books available and material for writing and preparing legal documents, such as his own appeal, he, Gehring being without counsel, in order to pursue his appeal. Do we allow appeal rights to be lost and due

process be thus denied by action of the sovereign? The prosec
insists that he has this right, and his very insistance points
the truth of Gehrings complaints.

CONCLUSION

As Gehring and his counsel pointed out at the outset of t
proceeding, the trial process and sentencing provisions are so
shot through with irregularities that both find it difficult to
present a comprehensive and coordinated attack of the convictio

Why is this so?

Obviously, a leading cause is the lack of counsel during
stages of the proceedings. This case is just a complete example
of over reaching of a citizen and his rights by denial of those
rights to a citizen by the prosecutor and by the Court. Seeming
each, the prosecutor and the Court, saught to out-do each other
demonstrating their legal skill and the lack of legal skill in J
Gehring. We all knew that before trial. The law prohibits tria
a citizen without counsel. The law prohibits imprisonment for d
The law prohibits denial of due process. The law prohibits cruel
unusual punishment. The law prohibits the denial of appeal right
by state action. The law requires that a prisoner have available
legal materials to prosecute his appeal or a writ of habeas corpu
The law requires equal protection in prosecution for criminal act
The law protects the privacy of communications between counsel an
client, particularly prisoner clients.

Each and every one of these legal requirements and legal pr
hibitions were denied Jack Gehring. WHY?

Judge Bennett, in the revocation hearing, branded Jack Gehr
as a dangerous political dissident, and this he may be; so were ou
founding fathers, God bless them. Jack Gehring is jailed as a
political dissident. Where then is our vaunted attack, mounted
world wide against all nations that deny human rights? Let us not
speak evil of others, when our own actions in this case against Ja

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Gehring, are as evil and vicious and unlawful and any committed other nations, seeking to squelch political dissent.

1.

Jack Gehring has asked this Court to issue a Writ of Habe Corpus and release him from custody. In so doing, Gehring seem seeks a review of his conviction by means of this extraordinary and ancient writ. Perhaps this Court would feel that It does r have the right to review the actions of another Court of equal power and jurisdiction. The other court, Judge Bennett was off opportunity to hear this matter, but declined to do so. Perhap would have taken action to correct the obvious abuses inherent this proceedings had he the opportunity, but he declined.

2.

This ancient and honorable writ is designed and was desig obtain freedom for the imprisoned, if the imprisonment be unlaw and/or unjust. This writ was wrested from the absolute soverei by force of arms; the sovereign has no choice but to submit, ev though with bitter reluctance.

a. Because of the bitter reluctance of the sovereign to up to its own wrongs and errors; because of the continued usurp of power by the sovereign and those members of government insis on seeking unlawful power, our Courts have adopted a measure de to prevent such usurpations of power, that measure is this:

Remove from the sovereign the fruits of its unlawful acts: Deny to government the use of tainted evidence; tainted trial re tainted convictions. Take away from It (them)all tainted accomp ment. Thus, and this way only, can the evils be prohibited.

b. Thus is the doctrine of Mapp, Escobedo, Miranda, etc.

3.

This Court has the power to release Gehring from Custody, by reason of the aforementioned irregularities and usurpations o power, evident in the record and by evidence presented, Gehring

submits that such an order is the only logical and lawful way in which the court could rule. However, Gehring and his counsel do understand the reluctance of Judges to over-rule another judge of equal stature. It may be that this Court would agree with the contentions of Gehring but feel that a higher Court should make that decision. Far be it from the minds of Gehring or his counsel that they should direct the discretionary powers of this Court to any channel, other than this; Gehring and his counsel suggest that if an appeal from any decision be taken, the State can best afford that cost and time. after all, the State initiated all actions herein taken, not Gehring; if any irregularities exist, (and Gehring insists there are) these irregularities exist IN THIS CASE, by reaso of State action alone and only, therefore, the State, in all justice, should and must bear the burden of costs and expenses.

Respectfully submitted this March 24, 1978

Jack B. Gehring pro se

Acting counsel

Served on counsel for the State and the Attorney General this March 24, 1978.

Jack B. Gehring

P.O. Box 509
Boulder, Montana 59632

March 29, 1979

SENATE JUDICIARY COMMITTEE
MONTANA STATE LEGISLATURE
HELENA, MONTANA 59601

RE: HB461
by REP. VERNER BERTELSEN (By Request of Montana Dept. of Revenue), Ovando, MT, District 27, Passed by H.R.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I welcome the opportunity to contribute to this hearing. I note that HB461, introduced by Rep. Bertelsen, at the request of the Department of Revenue, is passed by the House.

On the face of it, the sole object of this hearing would seem to be centered on a proposed statute that would: Define a particular tax reporting violation; change the charge for such violation from a "misdemeanor" to a "felony"; increase the penalty from 1 year in jail and 1,000 dollars to 5 years and 5,000 dollars; set the venue for such prosecution in Lewis & Clark County--discriminatory against the tax payers of this county--; provide a period of limitation from such prosecution; and amend certain sections and paragraphs in the existing statute. If such statute is enacted, it would be well to make sure that it, in itself, conforms with the law.

In giving my opinion here today, I represent only myself, and not any particular class or group of people, even though I am sure there are a growing number of individuals who will agree with me--judges, lawyers, public servants and other lay citizens as myself--who are taking the time to study some of the most basic laws and court decisions relating to the law of our land.

Presumably the proposed revised statute aims at bringing to so-called "justice" participants in what many have been propagandized into believing is a "tax strike", in progress in Montana and throughout the Nation. If we are going to be truthful, this movement should more appropriately be known as a "campaign to save the Constitution of the United States." To call these people "tax dodgers" is to use a misnomer. Just as everyone else, these people are paying exorbitant taxes daily, because the heavy burden of taxes (the real culprit in inflation) is transferred by sale of a loaf of bread -- or whatever -- to the consumer.

The real issue is the Constitution of the United States. When these dissenters make a Constitutional objection to each and every question on their income tax confession sheets, particularly invoking their 4th, 5th and 14th Amendment rights, they are not demonstrating against TAXES, per se. Instead, they are saying, "HEY! THE BUCK STOPS HERE ! LET'S GET BACK TO THE LAW OF THE LAND--The Constitution!" They are DEMANDING, as is their right, that the law be adhered to, to the letter and spirit that it was intended. They are saying, in effect: "If a tax must be collected, let's do so without violating my rights, or by breaking the law."

How will the State of Montana be able to enforce the proposed statute without violating the Law? It will be impossible, since HB461 is just an echo of the U. S. Internal Revenue Code. And it is a known fact that Revenue personnel place themselves daily in legal jeopardy by violating at least 8 of the first 10 Amendments in the Constitution (known as the Bill of Rights), in order to enforce the Revenue Code. One needs only to read the IRS Bible: 26 USC--a most oppressive piece of diatribe, section for section, enacted not by Congress but by the IRS bureaucracy.

There are some facets of HB461 that are blatantly violative of the U. S. Constitution, such as the requirement that all trials shall be held in Helena, where tax convictions seem to have been consistently obtained. It is held in 16 AM JUR 2d, Section 177, as one reference, that an unconstitutional statute is, in reality, no law, is null and void, and, therefore, need not be obeyed nor upheld in any competent court of law. The Sixteenth American Jurisprudence is replete with decisions supporting this concept. Any executive or judicial officer who upholds and enforces color of law that is repugnant to the Constitution--is in violation of, and punishable by a number of sections defined in Titles 18 USC and 42 USC. There are other laws, too.

Gentlemen of this Committee, I cannot suggest emphatically enough that you research the lawfulness of this statute at the Law Library--each and every one of you--to determine, to your own personal satisfaction, the Constitutional and legal consequences of HB461, prior to acting on it in any way.

Sincerely and respectfully,

JOHN T. LEWIS, A CONCERNED CITIZEN

Exhibit #5

BILLS TO BE HEARD BY SENATE JUDICIARY
Thursday, March 29, 1979

1.) HB 461 (Bertelsen)

By Request of Dept. of Revenue

Current law-
Under 15-30-321 there are civil and criminal penalties for failure to file a return or pay income tax. There are 2 civil penalties (1 for cases of intent and 1 for cases of non-intent) and 1 criminal penalty for cases intent ($1,000 or 1 year imprisonment.)
The required mental state is with or without "intent".

Proposed bill-
The bill provides that "to purposely or knowingly attempt to evade or defeat a tax is a felony ($5,000 or 5 years) The state would still have to prove intent in this felony prosecution. The bill also charges the required mental state to "purposely" or "knowingly" -- the effect of this charge is to generally do away with the requirement that the state prove "intent" in a prosecution.

NOTE:
1.) Section 6, page 10 provides for venue in Lewis & Clark County while page 9, line 2 provides for venue in any court of competent jurisdiction. This conflict should be corrected -- if section 6 is retained, it should be amended to allow for the power of a court to change the place of trial.
2.) Sections 3 and 4 merely make internal reference corrections and apparently are unnecessary.

2.) HJR 44 (Tropila)

Current law- The dept. of revenue has the power to make rules to govern the control of liquor in Montana. These rules are found in the administrative rules of Montana.

Proposed bill - directs the dept. of revenue to amend its rules governing distillery representatives' activities to be more in line with similar federal regulations. Among other things, the bill would restrict a vendor to using not more than 24 cases of liquor a year as samples and would require licensees to report monthly on the samples they receive.

Montana Individual Income Tax Return—1976

or fiscal year beginning January 1, 1976, and ending DEC 31, 19 76

FILED UNDER PROTEST – RETURN RECEIPT REQUESTED – PETITION FOR REDRESS OF
ATTACHMENTS ARE AN INTEGRAL PART OF THIS RETURN – OTHER MATERIALS INCLUC

PLACE LABEL HERE — Correct label if necessary. File on or before April 15, 1977 (fiscal year taxpayers see

I OFFER TO AMEND OR TO RE-FILE THIS RETURN EXACTLY AS YOU WISH IT, IF YOU WILL PLEASE SHOW ME HOW TO DO SO WITHOUT WAIVING MY CONSTITUTIONAL RIGHTS. INSERT "U.S. & MONTANA CONSTITUTION" AFTER THE WORD "CONSTITUTIONAL"

FILING STATUS: (CHECK ONE) 1☐ Single | 2☐ Married filing joint return | 3☐ Married and both filing separate returns on this form | 4☐ Married and both filing separate returns on separate forms | 5☒ Married separate and spou

CHECK ONE: 1☒ Resident Full Year | 2☐ Nonresident Full Year | 3☐ Resident Part Year — Give date of change:

Gubernatorial Campaign Fund: CHECK 1 ☐ IF YOU WISH TO DESIGNATE $1.00 OF YOUR TAXES FOR THIS FUND.
CHECK 2 ☐ IF SPOUSE WISHES TO DESIGNATE $1.00. (This will not increase your tax or reduce y

If combined separate filing is elected, use Column A for husband and Column B for wife. For all other returns, use Column A only.

		COLUMN A—for husband, joint, separate or single		CC (j
INCOME REPORTED ON FEDERAL RETURN (Lines 1 through 12):				
1. Wages, salaries, tips, etc. (Attach withholding forms. If unavailable, attach explanation) LESS THAN	1	12552 ** 720 --		
2. Dividend income (less exclusion)	2	**		
3. Interest income	3	**		
4. Net rent or royalty income (attach schedule)	4	**		
5. Net business income (attach copy of Schedule C)	5	**		
6. Net farm income (attach copy of Schedule F)	6	**		
7. Gain or loss from sale or exchange of property (attach schedule)	7	**		
8. Partnership income or loss (list name)	8	**		
9. Other income (specify)	9	**		
10. Total of lines 1 through 9				
11. Adjustments for sick pay, moving expense, etc. (schedule must be attached)	11	**		
12. Total income per Federal return (Subtract line 11 from line 10)		**		
13. Adjustments from page 2, Schedule A	13	**		
14. Montana adjusted gross income (line 12 plus or minus line 13)		**		
15. Deductions—If you elect the standard deductions, check here ☐ and enter 10% of line 14 but not more than $500 (not more than $1,000 if married filing a joint return). If you itemize deductions, enter total from page 2, Schedule B	15	**		
16. Subtract line 15 from line 14 and enter balance here		**		
17. Enter exemption deduction from page 2, Schedule C	17	**		
18. Taxable income (subtract line 17 from line 16)		**		
19. Tax liability from tax computation schedule at bottom of page 2		**		
20. Enter 10% of amount on line 19		**		
21. Total tax liability (add lines 19 and 20)		**		
22. Combine amounts shown on line 21, Columns A and B				**
PAYMENTS AND CREDITS 23. Montana tax withheld (attach withholding statements)	23	*		
24. Payments and credits on 1976 Estimated Tax	24	*		
25. Out of State tax credit, see page 4 of Instructions	25	*		
26. Contractor's Gross Receipts Tax Credit (attach schedule)	26	*		
27. Total of lines 23, 24, 25 and 26		*		
28. Combine amounts shown on line 27, Columns A and B				**
29. If tax (line 22) is larger than payments and credits (line 28) enter Balance Due here and pay in full with this return. If balance due is less than $1.00 file return without payment	29			
30. If payments and credits (line 28) are larger than your tax liability (line 22) enter Overpayment here. Refund or credit will be made only if $1.00 or more (allow at least 6 weeks for your refund check)	30			* 35. DO N

31. Amount of line 30 to be: Refunded $ 35.65 *

32. Amount of line 30 to be: Credited To 1977 estimated tax $ 0

Make remittances payable to: State Treasurer. Mail tax forms to Montana Department of Revenue, Income Tax Division, Helena, Montana 59601.

Penalties $ ____
Interest ____
Total $ ____

J. C.
(Signature of person or firm preparing return)

arn, including all accompanying schedules and statements, and to the best of my knowledge and

4-13-77

SCHEDULE [illegible] LINE 13 ADJUSTMENT

		COLUMN A (for husband, joint, separate or single)	COLUMN B (for wife)
to be added to line 12 income:			
60 Interest on state, county or municipal bonds—see page 2 of instructions	60		
61 Federal income tax refunds received during 1976—see page 2 of instructions	61		
62	62		
63 TOTAL I	63		
s to be deducted from line 12 income:			
64 Interest on Savings Bonds and other exempt obligations of the U.S.	64		
65 Income of nonresidents and persons changing state of residence derived from sources outside Montana	65		
66 Exempt retirement income (specify)	66		
67 STATE REFUND, if included in income reported on line 12, page 1	67		
68	68		
TOTAL II	69		
e 13 adjustment—deduct the smaller of the above totals from the larger and enter difference here and at line 13, page 1	70		

e: If total No. I is larger, then the adjustment entered on line 13 must be added to income reported on line 12 to arrive at the amount to be entered on line 14. If total No. II is the larger, then the adjustment entered on line 13 must be subtracted from income reported on line 12 to arrive at the amount to be entered on line 1

SCHEDULE B—ITEMIZED DEDUCTIONS

ese deductions are allowed only if you do not claim the "Standard Deduction."		COLUMN A (for husband, joint, separate or single)	COLUMN B (for wife)
onresidents and persons changing state of residence see page 3 of instructions.			
ontributions	71		
terest Expense (specify)	72		
ederal Income Tax (Do Not Include Self-Employment Tax)			
(1) Paid by withholding or declaration in 1976	73		
(2) Balance of 1975 tax paid in 1976	74		
(3) Additional tax for years paid in 1976	75		
Other Taxes (do not include Montana Income Tax): Real Estate $; state and local gasoline $; personal property $; other deductible taxes (specify)	76		
edical Expense:			
Enter ½ of amount paid for deductible health insurance but not more than $150	77		

		COLUMN A	COLUMN B		
Total cost of medicine and drugs	78			78	
Enter 1% of line 14, page 1	79			79	
Subtract line 79 from line 78	80			80	
Other medical and dental expenses (including hal- ance of health insurance premiums allowed on line 77	81			81	
Total of lines (80) and (81)	82			82	
Enter 3% of line 14, page 1	83			83	
Subtract line (83) from line (82) and enter balances in applicable columns	84				
Other Deductions (specify) Dues, political contributions, etc.	85				
Total Deductions—to line 15, page 1 ——▶	86				

SCHEDULE C—EXEMPTIONS

ers and persons changing state of residence see page 4 of instructions.		COLUMN A (for husband, joint, separate or single)	COLUMN B (for wife)
Enter number checked ▶	87		X X X X X
Enter number checked ▶	88		
s and other persons claimed as dependents: Enter number of Exemptions listed ▶	89		
e number of exemptions claimed	90		
Enter amounts here and on line 17, page 1	91	$	$

If Taxable Income on Line 18 is:			Your Tax to be Entered on Line 19 is:
Over	But Not Over		
[illegible]	[illegible]	[illegible]	of taxable income but not less than $1,000
[illegible]	[illegible]	[illegible]	20 plus 3% of excess over $ 1,000
[illegible]	[illegible]	[illegible]	over $ 2,000

If Taxable Income on Line 18 is:			
Over	But Not Over	Your Tax to be Entered on Line 19 is:	
$ 8,000	$10,000	$ 350 plus 7%	of excess over $ [illegible]
$10,000	$14,000	$ 490 plus 8%	of excess over $ [illegible]
$14,000	$20,000	$ 810 plus 9%	of excess over $ [illegible]

AFFIDAVIT OF MY UNDERSTANDING OF A UNITED STATES "DOLLAR"

State of MONTANA)
County of FLATHEAD) SS

I, _____
being first duly sworn, state and depose as follows:

1. *My study indicates* that under Title 26 United States Code, Section 6012, *that I am not a person required to file a tax return unless I had a gross income in excess of seven hundred and fifty dollars ($750) in one calendar year.*

2. *My study indicates that there is considerable confusion as to what is a "dollar," and* that it is not necessarily the same thing as "lawful money" or "legal tender," and that a Federal Reserve Note cannot be redeemed in either silver "standard" dollars, or "gold-dollars."

3. *It is my understanding that* Coinage Acts of Congress, starting in 1792, established that the "Standard" dollar of the United States is coined at 416 grains of standard silver, and that Congress later declared that when that dollar wore down to 409 grains it should be removed from circulation, since it no longer represented a full dollar — and that *412.5 grains represented the median, or "Standard" dollar* in which the moneys of account of the U.S. should thereafter be maintained — and that such a standard should be binding in the Courts of the United States.

4. I cannot find that the content of the "Standard" silver dollar has ever been changed, although it says in 31 USC 821 that the President can change it to whatever he thinks it should be. Although it doesn't seem to me that he should have any such power, it seems that Congress has delegated it to him; but I don't find that he has used it.

5. I understand that 31 USC 314 demands that the Secretary of the Treasury must maintain a parity of all United States currencies and coins in relation to a "gold-dollar," and that the latest definition of a gold-dollar is in 31 USC 449, wherein it states that the "new par value of the dollar of $1 equals 0.8289848 Special Drawing Right or, the equivalent in terms of gold, of forty-two and two-ninths dollars per fine troy ounce of gold." I don't find where he has done this, or that a Federal Reserve Note has a true "parity" to gold — since it is not redeemable.

6. To the best of my knowledge, information and belief, I have not earned any of this kind of "gold-dollars" or anything I know of which is in a parity thereto, or redeemable in some parity thereto. And I know that I have not received any "silver dollars" as defined in paragraph 3 above, and haven't for many years.

7. My study indicates that Federal Reserve Notes say they are "legal tender" for all debts, public and private, but to the best of my ability to understand, although the 13 original states gave power to Congress to coin money, and to regulate the value thereof (Article I, Section 8) *the states retained for themselves the right to declare legal tender, and were restricted by Article I, Section 10 to only coins of silver or gold.* I therefor am puzzled as to how there can be legal tender for debts which are notes of a bank which is claimed to be privately owned — and whose notes are not redeemable — suggesting that they are "accounts receivable" — which cannot be "received," or paid, because there is no longer any promise to redeem them.

8. I understand that "accounts receivable" are not reportable as income by a cash-basis taxpayer. I also understand that "bad-debts" are not "income" and that Federal Reserve Notes are either "promises" to pay dollars or "not-promises" to pay dollars. In either case I don't think that they are "gross-income" until I can get them redeemed.

9. I understand "legal tender for debt" is different than "legal tender for the *payment* of debt" and that notes and checks are not money unless redeemable.

10. I admit that these terms confuse me, and that I am not sure what the current statutory definition of a "dollar" is — and I don't know how to find it in the Internal Revenue Code, and have been told that if I inspect the code from cover to cover that I can never find the definition of a "dollar" there.

11. Therefore, I am really afraid of putting down figures on a 1040 Form, because the government could claim I'd made a "false statement." *I do not understand the 1040 Form nor the law as it applies to me relating to "dollars."*

Before me, a Notary Public, did appear _____
first duly sworn, did sign the foregoing Affidavit on this _____

Cynthia A. Martin
NOTARY PUBLIC

AFFIDAVIT

STATE OF MONTANA)
COUNTY OF FLATHEAD) ss

I, _____ of BIGFORK, MONTANA

being first duly sworn, state and depose as follows:

1. I have heard or read about the conviction of W. VAUGHN ELLSWORTH for the "filing of a false return" for 1968; to the best of my knowledge the government was able to twist good-faith and innocent information on the return into a criminal conviction even though Mr. Ellsworth's accountant testified that he had full access to and complete disclosure of Mr. Ellsworth's financial transactions needed to make his tax return.

2. It is my understanding that Mr. Ellsworth's accountant, in Case No. 75-126 held in US District Court in Phoenix, Arizona between the dates of September 26 and October 2, 1975, swore that he was unaware of any mistake in Mr. Ellsworth's tax return, but that if there were such that the accountant was responsible and that Mr. Ellsworth was not.

3. Because of the reported conviction of Mr. Ellsworth for filing a "knowing false return" while believing it honest, and while his accountant believed it to be honest, I am afraid to fill out my own 1040 in the orthodox fashion for fear that my innocent, honest and good faith information can be twisted against me and used by an all-powerful government to attempt to incriminate me; I therefore am compelled to use the Fifth Amendment to protect myself from what I consider to be criminal government.

4. I am confused about the meaning of "gross income," of "dollars," of "silver dollars," of "gold dollars," of "lawful money," of "legal tender," of "accounts receivable of Federal Reserve Notes which no one will apparently redeem." I understand that a Federal Reserve Note amounts to an account receivable and that an account receivable is not reportable as "income" on a cash basis tax return.

5. The 1040 Form asks that it be signed under penalties of perjury that the return is "true, correct and complete," which apparently means "perfect." I am afraid I cannot make a "perfect" return, since I have heard that IRS agents boast that they can find something wrong with any return.

6. It is my understanding that the US Supreme Court in Case No. 74-100, Garner v US, March 23, 1976, has affirmed a taxpayer's right to claim the 5th Amendment on a tax return. I therefore feel I must do so to protect myself against misrepresentation by government.

_____

Before me, a Notary Public, did appear _____ and being first duly sworn, did sign the foregoing Affidavit on _____, ~~1976~~.

_____
NOTARY PUBLIC

AFFIDAVIT

STATE OF ARIZONA)
COUNTY OF MARICOPA) ss

I, W. VAUGHN ELLSWORTH, being first duly sworn, state and depose as follows.

1. I filed as completely honest a tax return as I knew how for the year 1968.

2. That return was prepared by a professional accountant who had complete disclosure of and access to all my financial transactions, and who truthfully swore he was completely unaware of any mistake in said return, but that if there were one that it was his own responsibility.

3. IRS never dared claim I concealed any income, that I did not bank every cent and turn over all records to said accountant; they also admitted they had absolutely no suspicion of any dishonorableness on his part.

4. Despite this they were able to convict me of "knowingly" making a false return. I swear that I did not.

5. To me this proves that the government can convict you of making a false return even though it be absolutely honest.

6. I can never trust this government again because of the crime they have committed in my case; I cannot recommend that anyone fill out information on a 1040 Form as commanded by the US Government, because from first-hand experience I know they can claim a false return from the most honest of information.

W. VAUGHN ELLSWORTH
1051 North Grand
Mesa, Arizona 85201

SUBSCRIBED AND SWORN BEFORE ME, A NOTARY PUBLIC, THIS 19 DAY OF FEBRUARY, 1974.

NOTARY PUBLIC

My commission expires

AFFIDAVIT OF WITNESSES OF TRIAL OF W. VAUGHN ELLSWORTH

STATE OF ARIZONA)
COUNTY OF MARICOPA) ss

I, the undersigned, being first duly sworn, state and depose as follows:

1. I witnessed all or part of the trial of W. VAUGHN ELLSWORTH, Case No. 75-126 PHX CAM held in US District Court before Judge Carl A. Muecke between September 26 and October 2, 1975.

2. From my observations at the trial and from the testimony given, I became convinced that Mr. Ellsworth had given his accountant of many years standing, complete access to and full disclosure of all of Mr. Ellsworth's financial transactions needed for the accountant to make Mr. Ellsworth's tax return for 1968.

3. I know that the accountant said he believed he had made a proper return, and that it was not questioned until years later; he said that if there were any mistakes in it that they should be charged to him and not to Mr. Ellsworth, and that he, the accountant, assumed full responsibility for any possible error.

4. My observations at Mr. Ellsworth's trial convinced me that although he made what he considered was an honest tax return, and although the accountant made what he considered was a complete and honest tax return, that years later, because of Mr. Ellsworth's outspoken criticism of the Internal Revenue Service, the government was able to convict him of making a "knowing false return for 1968".

5. Because of what I witnessed, I believe that innocent and honest information given by almost any taxpayer can be twisted and slanted by a powerful IRS to make it appear "suspect"; I therefore believe that questions on a 1040 Form are not necessarily "innocent" or "innocuous", but can be made easily into deliberate "entrapment" questions even when answered honestly and forthrightly.

Date signed April 17, 1976 — Date signed April 17, '76 — Date signed April 17, 1976

Date signed Shirley Collins 4-17-76 — Date signed 4/17/76 — Date signed 4-17-76

Date signed Charles E. Riely 4-17-76 — Date signed Katherine S. Hamm — Date signed 4/17/76

Date signed Benjamin F. Davis 4/17/76 — Date signed 4-18-76 — Date signed 4-18-76

Date signed Lloyd Collins 4/17/76 — Date signed 4-18-76 — Date signed 4-18-76

Date signed GLENN A. PARTRIDGE 4/17/76 — Date signed 4-18-76 — Date signed 4-18-76

Date signed 4/17/76 — Date signed Mel Johnson — Date signed Robert Shaw 4-18-76

BEFORE ME, A NOTARY PUBLIC, APPEARED THE FOREGOING PERSONS, WHO, BEING FIRST DULY SWORN, DID SIGN THE ABOVE AFFIDAVIT IN MY PRESENCE ON THE DATE SET TO THEIR SIGNATURES.

TAX RETURN APPENDIX OF STATEMENTS AND EXHIBITS
TO ACCOMPANY PRECEEDING 1040 FORM, LETTER AND AFFIDAVITS

I here wish to apprise you of some of the reasons I have proceeded as I have:

> The legal right of a taxpayer to decrease the amount of what otherwise would be his taxes, or altogether avoid them, by means which the law permits, cannot be doubted."
> *Gregory v Helvering*, 293 US 465.

In this regard, I must point out that the law which is supreme is the Constitution. The law, or the Constitution, restricts Congress' power to tax to the following: "pay the debts and provide for the common defense and general welfare of the United States;"

Nowhere is there any provision in the Constitution, or is it implied in "providing for the common defense and general welfare of the United States" that I shall be taxed to study the mating calls of Central American frogs or to study the odor of the sweat of the aboriginies of Australia. (See attached Exhibit 1).

Don't you agree, sir, that any congressman foolish enough to vote for that should have to go out on to the firing line and attempt to collect funds for such nonsense from the taxpayers themselves? I imagine it truly embarrasses some of your personnel when they have to try and collect funds for such 'on their face' unconstitutional purposes.

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I hope you agree with me that it would be better for those who transgressed the law in the first place—the congressmen who so voted—to attempt to collect the unlawful tax rather than to have personnel of your office violate their oaths to support and uphold the Constitution by attempting such unlawful collections.

If, as stated in the *Gregory* case, above, I am entitled to decrease my taxes or to avoid them altogether if the law permits, then wouldn't you admit that a person properly uses the Constitution to accomplish such end? Especially to avoid paying unwarranted interest to the international bankers who unlawfully control the money cartel in this country, the hidden owners of the Federal Reserve System?

I wish to make it clear that I offer to fill out a 1040 form, to amend these returns, and to make them exactly like you and your IRS personnel desire them, providing that you, or any lawyers, or any judges, can show me how I can do so without waiving or violating my *Constitutional* rights.

I am aware that the Internal Revenue Service proudly proclaims that the income taxation of the United States is a "voluntary" system. I would like you to clarify what the term "voluntary" means. I always thought that it meant willingly, of one's free choice and decision. However, since there are criminal sanctions imposed for failing to "volunteer" in filling out 1040 forms, what the IRS is apparently doing is saying that "Unless you volunteer you are going to jail." Is that really what you mean?

It has come to my attention that when your Bureau does bring charges against one for filling out a return in a fashion which you do not approve of, that you can charge a person with "willful failure to file" under 26 USC 7203.

In this regard, I have given some thought to the US Supreme Court case of *US v Bishop*, 412 US 346 (1973) which states:

> *"The requirement of an offence committed WILLFULLY is not met, therefore, IF A TAXPAYER HAS RELIED IN GOOD FAITH UPON A PRIOR* DECISION OF THIS COURT". (Emphasis added).

I would like to point out some decisions, mostly of the Supreme Court, which I have relied upon.

> "All laws which are repugnant to the Constitution are null and void." Chief Justice Marshall, *Marbury v Madison*, 5 US (1 Cranch) 137, 174, 176 (1803)

Another decision of the Supreme Court which I have relied upon is:

> "We find it intolerable that one constitutional right should have to be surrendered in order to assert another. *Simmons v US*, 390 US 389 (1968)"

In this regard, I have under the 1st Amendment, the right to freedom of speech, WHICH INCLUDES THE RIGHT "NOT TO SPEAK". If I am compelled, against my will, to fill out a 1040 form as another wishes it, then it is true, is it not, that I am being compelled to speak on paper?

Under the 1st Amendment I have the right to practice my religious principles and to be true to my conscience so long as I do not trespass another's rights in so doing. It violates my religious convictions to be compelled to uphold unequal taxation, and to finance the socialist and communist ideologies which I know to be a threat to my religious rights.

Under the Fourth Amendment I am guaranteed the right of privacy. If I am compelled by legislation to give up that privacy by being compelled, against my will, to fill out a 1040 form as another wishes, then someone has forced me to waive my right of privacy, correct? And they have done so by pretending to pass a "law" which anyone can see is repugnant to the Constitution. Such a law is null and void, according to the Supreme Court decision in *Marbury v Madison*, cited above.

Of course we all know that the Constitution can be changed by Amendment, but we also know that there has never been an Amendment doing away with the Fourth Amendment. Therefore, we all can surely see that any law pretending to force the waiving of the right of privacy has to be null and void until such time as a proper new Amendment nullifies the right of privacy.

Going back to the Simmons case, decided by the Supreme Court, I cannot be compelled to surrender my Fourth Amendment right of privacy in order to claim, let us say, the Ninth Amendment right to be let alone by government so long as I do not trespass another's rights.

Taking the Fourth Amendment a little further, it guarantees my rights against unreasonable search. Filling out a 1040 form as the IRS apparently wishes it, would certainly be submitting to a search. Under the Fourth Amendment, before one can be searched a warrant based on sworn testimony giving probable cause that a crime has been committed, and particularly describing things to be searched, must issue. The IRS expects its searching via 1040 forms to bypass this Constitutional safeguard, and apparently expects the taxpayer to waive his right against unreasonable search as he spills out all his private and sacred affairs on your form.

The Fifth Amendment protects me against being a witness against myself. If I fill out a 1040 form as you wish it, it apparently becomes a "confession sheet". The government insists that all true criminals be given "Miranda warnings," advising them that where government is concerned they have no need to speak against their will. Not being compelled to speak against one's self is of little value if one can be compelled to reduce to writing against one's self that which he could not be compelled to speak.

The 5th Amendment also prevents the government from taking my private property (including money) for public use without just compensation. A dose of socialism and compulsory financing of my own destruction is not "just compensation" for taking my private property.

[illegible] the Seventh Amendment of the Constitution [illegible] United States no one can be proceeded against in any [illegible] where the amount in controversy exceeds $20 [illegible] has the protection of a trial by jury. This means [illegible] 1040 form involving that amount or more cannot be [illegible] at the hands of a taxpayer without the concurr[illegible] of a jury of one's peers. How can anyone read any [illegible] into the clear language of the Seventh [illegible]?

[illegible] cruel, harsh, and unusual punishment for me to be [illegible] to give up my privacy, be a witness against my[illegible], give up a jury trial, be a reporter and informant against [illegible], and be a tax collector for the government. I am pro[illegible] against these things by the Eighth Amendment.

[illegible] the Ninth and Tenth Amendments, I reserve [illegible] and power I have not surrendered up to govern[illegible]. I have never surrendered the right not to be com[illegible] to contribute to my own destruction. I have never [illegible] the right not to be compelled to support that which [illegible], and that which I consider to be wicked corrup[illegible] of government. I have no obligation under these amend[illegible] to support Marxism, which is an enemy of everything [illegible] dear: family, religion and country. Many people know [illegible] the graduated income tax is the number two plank of [illegible] Manifesto—designed to betray and debauch [illegible] country such as the United States, bringing it down [illegible] Communism.

[illegible] the Thirteenth Amendment, I am protected [illegible] involuntary servitude. When I am forced, under threat [illegible] prosecution if I decline, to be a record keeper, [illegible] informant and tax collector, then I surely am being [illegible] to give up my Thirteenth Amendment right against [illegible] servitude.

[illegible] *Sullivan*, 274 US 259 at 263:

> "If the form of the return provided called for [illegible] that the Defendant was privileged from [illegible], he could have raised the objection in the [illegible], but could not on that account, refuse to [illegible] any return at all. . ."

[illegible] would indicate that I could assert all of my Con[illegible] objections to the Internal Revenue Code in my [illegible] this is what I am here doing.

[illegible] to list some of my objections. If I ob[illegible] some, or all of the questions on my tax [illegible] of my Fifth Amendment right against self[illegible], the right not to be a witness against my[illegible], according to the following Eighth Circuit [illegible] case, *can and must be the judge of the* [illegible] *of such a claim.*

> "...he must be the sole judge of what his answer [illegible]. The Court cannot participate with him [illegible] judgment because they cannot decide on [illegible] effect of his answer without knowing what it [illegible], and a disclosure of that fact to the [illegible] would strip him of the privilege which the [illegible] and which he claims. *Isaacs v US*, [illegible] 231 F 2d 651 (1958)

[illegible], in turn cites *Empak v US*, 349 US

> "...whether such admissions by themselves would [illegible] a conviction under a criminal statute is [illegible] and that the privilege also extends to [illegible] that may only *lead* to incrimination."

[illegible] judicial review of information sought

> "...[illegible] qualification *fully protects* one whose [illegible] made in good faith and upon grounds which [illegible] to the judgment of the court before [illegible] is compelled, *Federal Power Commissions* [illegible] *Edison Co.*, 304 US 375."

[illegible] I would like to ask you how you can justify [illegible] against a person who exercises his [illegible] in making his tax returns, in view of

> "...[illegible] the failure to give a statement which [illegible] incriminatory, is beyond the power of Con[illegible] *Lonsdale*, 238 F 980."

and,

> "The claim and exercise of a Constitutional right cannot be converted into a crime." *Miller v US*, 230 F 486 at 489.

and in *Miranda v Arizona*, 380 US 436 (1966)

> "Where fundamental rights under the Constitution are involved there can be no rule-making or legislation which can abrogate them."

In *Sherar v Cullen*, 481 F 2d 946 (1973), the Ninth Circuit emphasized that:

> "... there be no sanction or penalty imposed upon one because of his exercise of Constitutional rights."

Some other cases which I have read parts of or have heard about, and upon which I also rely, include:

Boyd v US, 116 US 616 (1885); *Hill v Philpott*, 445 F 2d 144; *Julliard v Greenmen*, 110 US 421; *Kansan v Colorado*, 206 US 46 (1907); *Reisman v Caplin*, 375 US 440 (1964); *US v Murdock*, 290 US 389 (1933); *US v Tarlowski*, 305 F Supp 112 (1969)

One of the important cases which I rely upon, to show that in any trial a jury is entitled to decide law as well as fact is the famous libel case of Peter Zenger. But probably the most famous case I rely on in this regard is the case of *Georgia v Brailsford*, 3 Dall. 1, (1794).

This case occurred seven years after the writing of the Constitution and three years after the ratification of the Bill of Rights, wherein guarantee of jury trial under the Sixth and Seventh Amendments was clarified.

In this case, Chief Justice Jay, and Associate Justices and former delegates to the Constitutional Convention, Wilson, Blair, and Patterson, and Cushing, who had been Chief Justice of Massachusetts where the opinion in each case was delivered by the jury rather than by the court, united in a charge to a jury in the first jury case under original jurisdiction which was tried by the US Supreme Court.

The Chief Justice, speaking for all of the justices, charged the jury with deciding the "law of the land" which arose from the facts of the case about which there was no dispute.

The taxpayer here recognizes that many so-called laws cannot be maintained and upheld when the jury again realizes its true function—that of deciding whether laws are too harsh or unjust, or whether in a given case, because of the circumstances, they should or should not be applied.

This taxpayer has confidence that a jury which realizes it must render justice and support the Constitution, rather than to support a possible false instruction by a judge who may have violated his oath to support the Constitution, can well decide whether or not the taxpayer's returns comply with the 1st, 4th, 5th, 7th, 8th, 10th, 13th, and 14th Amendments, for example.

A very serious matter is the provision of Section 2 of the Fourteenth Amendment. Making adjustments for Indians, women who now vote, and eighteen year olds who now vote, Section 2 in essence says:

> Representatives (Congressional) shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State...*But when the right to vote at any election for the choice of...judicial officers of a State...is denied to any of the inhabitants of such State*, being eighteen years of age, and citizens of the United States, OR IN ANY WAY ABRIDGED...THE BASIS OF REPRESENTATION THEREIN SHALL BE REDUCED IN THE PROPORTION WHICH THE NUMBER OF SUCH CITIZENS SHALL BEAR TO THE WHOLE NUMBER OF CITIZENS EIGHTEEN YEARS OF AGE IN SUCH STATE. (Emphasis and modification added).

All states require "license" to "practice law" or membership in a Bar, or admission to practice law before the highest court of the State, or other limitation to those who are nominated or elected for judgeships. Some States have a governor-appointed committee nominate candidates from which a governor appoints some to judgeships. THE PEOPLE, THEN, ARE RESTRICTED OR ABRIDGED IN THEIR RIGHT TO VOTE AT AN ELECTION FOR THE "CHOICE... OF JUDICIAL OFFICERS OF A STATE." In States where judges are appointed, the people are usually restricted in elections to voting, in effect: "Should Judge 'Bar-favorite', or 'Governor-

favorite", be continued in office?" If the majority of the people vote that said judge should not be continued in office, the governor usually appoints another from the "approved" list.

There is absolutely no way to get around the fact that this constitutes a denial, a restriction, an abridgement—on the people's right to choose, the people's right to nominate, and the people's right to vote for a judge of their choice in an election for the judicial officers of the State.

Even further, municipalities are subdivisions of a State. In many cities a city council appoints the magistrates or judges and the people never have a right to vote for such judicial officers of the State.

These practices "abridge" the right to vote for judicial officers of the State. They abridge the right to so vote of ALL who are citizens of the United States and over eighteen years of age and otherwise qualified to vote in their own State. THE ABRIDGMENT OF THE RIGHT OF "ALL" OF THOSE OVER EIGHTEEN, means that the proportion they bear to the rest of the inhabitants of the State is approximately 100%—OR, ALL TO ALL!

Therefore, all such states qualifying or "restricting" or "abridging" the free right to nominate *any candidate* for judge and to freely vote for *any candidate* for judge, must lose their representation in Congress by that proportion in which they abridge the right to vote of otherwise eligible voters—the proportion *that* bears to the whole number of inhabitants of the state over eighteen.

In effect, this means that most states, possibly all, have actually lost their representation, or most of it, in the House of Representatives in Congress, effective with the passing of the Fourteenth Amendment, whenever they have gone to appointed judges and very restricted nominations of the same.

This means that many Congressmen now serving are doing so unlawfully, and that votes they have cast over the past 100 years are subject to challenge and recapitulation.

This means, that very likely the 16th Amendment—the Income Tax Amendment—was never properly passed by Congress, since there was in effect an illegal House of Representatives—as there still is.

This means that the Federal Reserve Act and the passing and ratification of the Income Tax Amendment are probably null and void. If the States have lost their representation in Congress, it means that again we have "taxation without representation", which justified active revolution against the Crown of England by our inspired Founding Fathers.

FOR ALL OF THE FOREGOING REASONS, plus the fact that I have not received enough "Statutory dollars" — as I understand the term, to even be required to file a tax return, I feel that the returns I have submitted far exceed my obligations under the law.

You can see from the foregoing that there are many Americans who feel that the Graduated Income Tax based on irredeemable 'money' is a violation of their Constitutional rights.

This sentiment is sometimes shared by the courts; judges often differ in different jurisdictions as to how to interpret tax laws. The different circuits of the appeal courts often differ on such matters.

As you know, the Supreme Court of the United States often divides 5-4, 6-3, 7-2, and so forth, on tax matters.

It is interesting to note in this regard the ruling of a Federal District Court in Pennsylvania—that those of the "Friends"—Quakers, who conscientiously opposed the war in VietNam could avoid the withholding tax on their salaries, proportionate to the amount of expenditures going for the war!

It is also very important to note that the Supreme Court of Pennsylvania struck down as *unconstitutional* the graduated income tax for that State, which was copied after the United States Internal Revenue Code. It amounted to unequal taxation under the law to different persons and groups.

It is also very interesting to know that persons who have deliberately taken the same problem to different IRS offices for assistance have received different answers at each office.

In conclusion, again let me say, I do not refuse to pay any valid Constitutional tax; I offer to change my return and my past returns and to make them as you wish whenever you show me how I can do so without waiving my Constitutional rights.

HOW CONGRESS SPENDS TAXES

Virginia Polytechnic Institute received a $19,600 grant for development of a "genetic stock center" for German cockroaches. This grant was to supplement an earlier funding of $17,000. Officials say the grant will enable the "preservation of 55 mutant types of the German cockroach."

The Interior Department has estimated that the occupation of Wounded Knee, South Dakota by the revolutionary American Indian Movement (A.I.M.) cost us taxpayers between $5 and $7 million.

The following are only a part of the more wasteful, ridiculous programs and the amount of tax dollars they cost:

$5,000 for investigation of the diving behavior of seals.
$20,324 for study of the mating calls of Central American frogs.
$20,000 in research on the blood groups of Polish Zlotnika pigs.
$70,000 to learn about the smell of perspiration given off by the Australian aborigines.
$17,000 on a dry cleaning plant so that the Bedouins can have clean djellabas.
$32,459 to the officials of Kenya for the purchase of extra wives.

$5,000 award for a poem entitled: "lighght."
$28,361 to Turkey for an odor-measuring machine.
$2 million to Marshal Tito for his purchase of a yacht.
$203,979 to Travelers Aid to help migrants lost on the Los Angeles freeways.
$5,000 to complete an experimental analysis of violin varnish.

$50,000 toward the documentation of the Weltanschauung of the Gaujiro Indians of Columbia.

$22,000 to the University of Arkansas for not planting rice.
$19,000 to Libby McNeil for not planting rice.
$14,000 to the Ford Motor Co. for not planting wheat.
$19,300 to study why children fall off tricycles.
$375,000 to study the frisbee.
$50,000 to study wild sheep and goats in Pakistan.

$59,000 annually for upkeep on government's cache of 3 million pounds of feathers. *(Count Down* thinks this last item is symbolic of the fact that our top-heavy bureaucratic government has picked us chickens clean!)

Foreign Aid: Who Got It?

Editorial Director Dick West has received several requests recently to publish a summation of U.S. foreign aid—specifically, in his words, "who got it—and how much."

Getting hold of this data isn't easy, but Congressman Otto E. Passman of Louisiana came to the rescue. He is chairman of the Foreign Operations Subcommittee on Appropriations, U.S. House of Representatives.

The table below is our government's "net foreign assistance" as of July 1, 1971, to 127 countries of the world. The total, counting interest "on what we borrowed to give away," to use Passman's words, is $212,550,797,000.

There are 68,000 employes throughout the world on the payroll of our foreign-aid program. Involved are 4,416 projects. "Not a single foreign-aid project has ever been stopped or slowed down for lack of funds," Passman disclosed.

"This freewheeling spending program has helped push the U.S. public debt to a figure of $87 billion above the combined public debt of all the other nations of the world."

Along the same line, this statement was made recently: "If you had begun spending $1,000 every hour before the birth of Christ, by now you would not have spent one fifth of what the federal government will spend this year."

The foreign-aid table is below. The last item, W/W, Regional, includes "worldwide" and regional programs entered into jointly by groups of countries —apart from individualized foreign assistance.

Afghanistan	$ 373,800,000	Haiti	$ 117,200,000	Portugal	$ 432,900,000
Albania	20,400,000	Honduras	122,800,000	Romania	10,000,000
Algeria	176,100,000	Hungary	13,300,000	Rwanda	8,000,000
Argentina	341,100,000	Iceland	59,800,000	Saudi Arabia	178,800,000
Australia	594,400,000	India	8,003,600,000	Senegal	40,100,000
Austria	1,218,400,000	Indochina	1,635,200,000	Sierre Leone	44,100,000
Barbados	700,000	Indonesia	1,343,800,000	Singapore	31,300,000
Belgium-Luxem.	1,742,200,000	Iran	1,945,700,000	Somalia	79,300,000
Bolivia	532,000,000	Iraq	90,600,000	South Africa, Rep.	33,300,000
Botswana	19,100,000	Ireland	105,700,000	Southern Yemen	200,000
Brazil	2,738,200,000	Israel	992,000,000	Spain	2,028,400,000
Burundi	7,800,000	Italy	5,528,500,000	Sudan	91,000,000
Burma	158,600,000	Ivory Coast	80,000,000	Swaziland	4,900,000
Cambodia	613,700,000	Jamaica	92,400,000	Sweden	125,300,000
Cameroon	33,500,000	Japan	3,419,000,000	Switzerland	45,300,000
Canada	46,500,000	Jordan	710,000,000	Syrian Arab Rep.	56,700,000
Cen. Africa Rep.	5,600,000	Kenya	77,100,000	Tanzania	73,400,000
Ceylon	176,600,000	Korea	10,059,500,000	Thailand	1,592,400,000
Chad	9,800,000	Kuwait	29,500,000	Togo	17,300,000
Chile	1,281,800,000	Laos	1,449,500,000	Trinidad & Tobago	49,700,000
China, Rep. of	5,096,500,000	Lebanon	95,000,000	Tunisia	669,400,000
Colombia	1,119,400,000	Lesotho	12,100,000	Turkey	3,640,500,000
Congo (B)	4,000,000	Liberia	217,100,000	Uganda	42,500,000
Congo (K)	456,000,000	Libya	221,600,000	United Arab Rep.	759,900,000
Costa Rica	155,200,000	Malagasy Rep.	14,100,000	United Kingdom	7,209,100,000
Cuba	43,700,000	Malawi	26,400,000	USSR	186,400,000
Cyprus	22,400,000	Malaysia	72,600,000	Upper Volta	18,500,000
Czechoslovakia	189,500,000	Mali	30,000,000	Uruguay	184,900,000
Dahomey	12,900,000	Malta	8,300,000	Venezuela	317,600,000
Denmark	873,300,000	Mauritania	5,000,000	Vietnam	15,213,700,000
Dominican Rep.	483,400,000	Mauritius	6,100,000	Western Somoa	2,500,000
East Germany	800,000	Mexico	451,600,000	Yemen	45,300,000
Ecuador	296,700,000	Morocco	731,300,000	Yugoslavia	2,515,600,000
El Salvador	145,400,000	Nepal	157,600,000	Zambia	6,100,000
Equatorial Guinea	300,000	Netherlands	2,033,300,000	Bahamas	31,500,000
Ethiopia	394,100,000	New Zealand	58,300,000	Brit. Honduras	5,900,000
Finland	10,300,000	Nicaragua	165,600,000	Brunei	14,000,000
France	7,050,700,000	Niger	15,900,000	South Rhodesia	1,500,000
Gabon	7,600,000	Nigeria	383,600,000	Surinam	9,200,000
Gambia	3,300,000	Norway	1,127,100,000	West Indies	8,900,000
Ghana	264,800,000	Pakistan	4,484,100,000	Hong Kong	44,700,000
Germany & Berlin	3,632,400,000	Panama	242,300,000	Papua & New Guinea	23,700,000
Greece	3,651,900,000	Paraguay	131,100,000	Ryukyu Islands	403,300,000
Guatemala	355,300,000	Peru	465,200,000	Trust Ter. Pac.	284,200,000
Guinea	113,000,000	Philippines	1,938,600,000	CENTO	54,700,000
Guyana	69,500,000	Poland	437,300,000	W/W, Regional	15,907,600,000

Total Disbursements to Foreign Nations	1946-1971	$138,446,200,000
Interest Paid on What We Borrowed to Give Away	1946-1971	74,404,597,000
GRAND TOTAL — COST OF FOREIGN ASSISTANCE	1946 THROUGH 1971	$212,550,797,000

Marchetti vs. United States, 390 U.S. 39 at page 51:

". . . The constitutional privilege was intended to shield the guilty and imprudent as well as the innocent and foresighted; . . ."

At page 57:

". . . The Government's anxiety to obtain information known to a private individual does not without more render that information public; if it did no room would remain for the application of the constitutional privilege. Nor does it stamp information with a public character that the Government has formalized its demands in the attire of a statute; if this alone were sufficient, the constitutional privilege could be entirely abrogated by any Act of Congress."

United States vs. Sullivan, 274 U.S. 259 at page 262:

"The privilege is not limited to testimony, as ordinarily understood, but extends to every means by which one may be compelled to produce information which may incriminate. *Boyd v. United States*, supra; *Brown v. Walker*, 161 U.S. 591. *Distinguishing Hale v. Henkel*, 201 U.S. 43; *Wilson v. United States*, 221 U.S. 361; *Baltimore etc. R. Co. v. Interstate Commerce Commission*, 221 U.S. 612; and *United States v. Sischo*, 262 U.S. 165. See *McCarthy v. Arndstein, 266 U.S. 34; United States v. Lombardo*, 228 Fed. 980; *United States v. Dalton*, 286 Fed. 756; *United States v. Mulligan*, 268 Fed. 893; *United States v. Cohen Grocery Co.*, 255 U.S. 81; *United States v. Sherry*, 294 Fed. 684."

At page 263:

". . . If the form of return provided called for answers that the defendant was privileged from making he could have raised the objection in the return, but could not on that account refuse to make any return at all."

Heligman vs. United States, 407 F 2d 448:

". . . The privilege must be specifically claimed on a particular question and the matter submitted to the court for its determination as to the validity of the claim."

United States vs. Daly, 481 F 2d 28 (1973)

"The chief error in defendant's position is his blanket refusal to answer any questions on the returns relating to his income or expenses for the years in question."

Counselman vs. Hitchcock, 142 U.S. 547:

"We are clearly of opinion that no statute which leaves the party or witness subject to prosecution, after he answers the criminating question put to him, can have the effect of supplanting the privilege conferred by the Constitution of the United States . . . . In view of the constitutional provision, a statutory enactment, to be valid, must afford absolute immunity against future prosecutions for the offence to which the question relates."

Hale vs. Henkel, 201 U.S. 43 at page 74:

". . . We are of the opinion that there is a clear distinction in this particular between an individual and a corporation, and that the latter has no right to refuse to submit its books and papers for an examination at the suit of the State. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights. *An individual may lawfully refuse to answer incriminating questions unless protected by an immunity statute . . .*"(emphasis added)

Miranda vs. State of Arizona, 380 US 436 (1966):

"Privilege against self-incrimination is in part individual's substantive right to private enclave where he may lead private life.

"Constitutional foundation underlying privlege against self-incrimination is the respect a government, state or federal, must accord to dignity and integrity of its citizens.

"Govenment seeking to punish individual must produce evidence against him by its own independent labors, rather than by cruel, simple expedient of compelling it from his own mouth.

"Privilege against self-incrimination is fulfilled only when person is guaranteed right to remain silent unless he chooses to speak in unfettered exercise of his own will.

"Privilege against self-incrimination protects individual from being compelled to incriminate himself in any manner; it does not distinguish degrees of incrimination.

"Fifth Amendment provision that individual cannot be compelled to be witness against himself cannot be abridged.

"Where rights secured by Constitution are involved, there can be no rule making or legislation which would abrogate them."

United States vs. Dickerson, 413 F. 2d 1111:

"Only the rare taxpayer would be likely to know that he could refuse to produce his records to IRS agents . . .

". . . Who would believe the ironic truth that the cooperative taxpayer fares much worse than the individual who relies upon his constitutional rights!"

Congressional Record—Senate, August 2, 1967, page 20961, denominated "RIGHTS OF TAXPAYERS":

Mr. LONG of Missouri. "Mr. President, I invite the Senate's attention to certain correspondence I have had with Internal Revenue Service Commissioner Sheldon S. Cohen with respect to the legal obligation of citizens to keep records, produce records, and answer questions relating to tax liability.

. . . Criminal cases have been veiled in civil clothing to obtain information illegally. Taxpayers have been bullied and threatened, especially small taxpayers and those without legal assistance.

What should taxpayers do when faced with such a situation? Do all lawyers even know what the obligations of taxpayers are as to record-keeping, record producing, and question answering?

The answer seems to be "No." For this reason, I wrote to Commissioner Cohen on April 17, 1967, and received his reply on July 7, 1967. As his reply is most instructive and will help the Congress, as well as taxpayers, their lawyers and accountants, I ask unanimous consent that the correspondence be printed in the Record."

The following are excerpts from Commissioner Cohen's reply, which was prepared by chief counsel Lester R. Vretz, and denominated U.S. Government Memorandum CC: CL—3487:

"Good faith challenges in the form of constitutional and other federally recognized privileges are of course recognized by the Service. For example, the privilege against self-incrimination under the Fifth Amendment may be a proper basis by an individual taxpayer for refusing to answer specific questions or to furnish his records.

". . . Before recommending prosecution under section 7201 or 7203, the Service must usually develop enough information to show a substantial tax liability that was not met in addition to criminal intent.

". . . the constitutional rights and other legal rights of all persons will be fully respected and observed."

Garner v. United States, 424 US (1976), 96 S Ct 1178

The Supreme Court, by a vote of 8-0, held in the case of *Garner v. United States*, decided on March 23, 1976, that one could claim the Fifth Amendment privilege against self-incrimination on a tax-return, and that unless the privilege was claimed it would be considered as "waived," and that disclosures voluntarily given on the return would not be considered as "compelled" within the meaning of the Fifth Amendment.

The Court acknowledges that a claim of the "privilege" would constitute a defense of a charge of 26 USC 7203—"wilful failure to file" —" since a valid claim of privilege cannot be the basis for a 7203 conviction."

The Court goes on to say, "The Fifth Amendment itself guarantees the taxpayer's insulation against liability imposed on the basis of a valid and timely claim of privilege. . ."

In a separate, but concurring opinion, Justices Marshall and Brennan state, "In discussing this question, the Court notes that only a 'willful' failure to make a return is punishable under 7203 and that *'a defendant could not properly be convicted for an erroneous claim of privilege asserted in good faith . . . since a good-faith erroneous assertion of the privilege does not expose a taxpayer to criminal liability . . .'*"

The two justices also state, ". . . a good faith erroneous claim of privilege entitles a taxpayer to acquittal under 7203 . . ."

The majority opinion was delivered by Justice Powell, who said, citing *Kastigar v United States*, 406 U.S. 441 (1972):

> "a witness protected by the privilege may rightfully refuse to answer unless and until he is protected at least against the use of his compelled answers and evidence derived therefrom in any subsequent criminal case in which he is a defendant."

The Court went on to say:

> "Absent such protection, if he is nevertheless compelled to answer, his answers are inadmissible against him in a later criminal prosecution. *Bram v United States*, [168 U.S. 532 (1871)]: *Lefkowitz v. Turley*, 414 U.S. 70, 78 (1973).

The Court, in its majority opinion, comments on the cases of *Marchetti v. United States*, 390 U.S. 39 (1968) and *Grosso v. United States*, 390 U.S. 62 (1968). Since those involved were gamblers the filing of returns required of gamblers would of itself constitute an incriminating act, since the occupation of gambling was "inherently suspect" and permeated with statutes of criminality, "the Court held that the privilege could be exercised by simply failing to file."

The filer of this tax-return has heard that upon receiving a "5th Amendment Tax Return" that the IRS immediately categorizes one who claims said Constitutional right as one "inherent suspect of criminal activity."

If this is so then the taxpayer would appear to have every right granted Grosso and Marchetti. If the taxpayer's claim of the Fifth Amendment makes him suspect of "criminal activity," according to the doctrine of *Grosso* and *Marchetti*, supra, he could exercise the "privilege" by "simply failing to file" (See page 11 of the slip opinion, *Garner*, above.)

Judge Ritter Declares Rights of Taxpayers

Wayne F. Belnap of Salt Lake City recently brought suit against the Internal Revenue Service because, he claimed, they, by duress, gained access to his records, made copies of them without receiving his permission, and then refused to surrender those copies to him.

Chief Judge Willis W. Ritter of the U.S. District Court, District of Utah, dismissed the case on October 22 and claimed that Belnap had waived his constitutional immunities when he gave the IRS access to his records. The "Transcript of Proceedings" from the October 22 hearing is now available. The remainder of this article contains exact quotations from Judge Ritter as written in the official court records. Some parenthetical explanations have been added. The actual case is Wayne Belnap v. U.S., et. al. (C 149-71).

"All you needed to do is tell him (the IRS agent) you wouldn't say anything or you wouldn't turn anything over to him and keep your mouth shut, and you didn't do that. Now, you have a Constitutional right to do that." (Page 4.) * * *

"The part that is important to you, Mr. Belnap, is that you can't be compelled to be a witness against yourself. That is what I have been telling you about. That Fifth Amendment, in that clause about you can't be compelled to be a witness against yourself, is where you have a Constitutional right that should have been asserted when you turned those records over to him. * * *

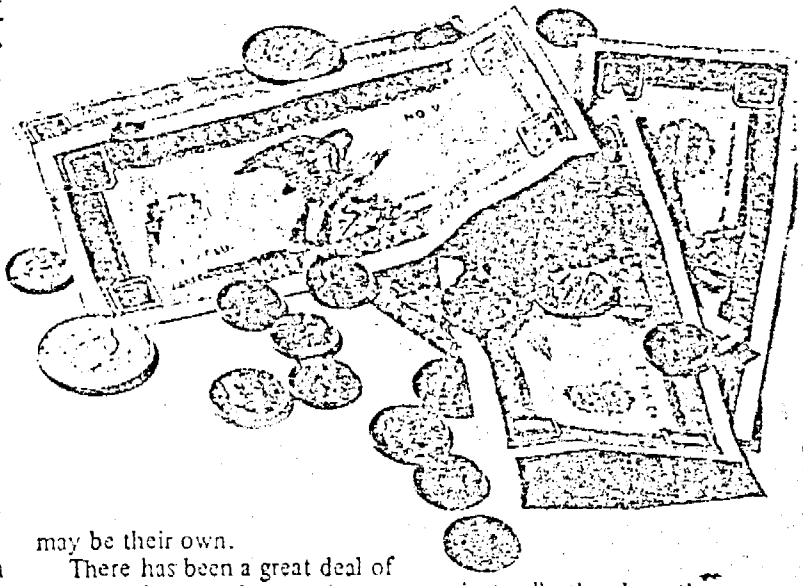
Promises, Promises -- Part 1

The Great Federal Reserve Note Caper

". . .Fed Notes are NOT money – but mere PROMISES to pay.

. . .The sack of these United States by the Fed is the greatest crime in history . . .The Fed should be repealed and the Fed Banks having violated their charters, should be liquidated immediately . . . If the Fed cannot keep their contract with United States citizens to redeem their paper money in gold, or lawful money then the Fed must be taken over by the United States Government and their officers must be put on trial."

Congressman Louis T. McFadden
Congressional Record,
June 10, 1932
pgs. 12,595 -- 12,603



By CLAIRE KELLEY

PART I

Congressman McFadden knew what he was talking about, for he was himself a banker from Canton, Pennsylvania, elected to the U.S. House of Representatives on BOTH the Republican and Democratic tickets. As President of the First National Bank in Canton, the people in his hometown knew him to be an honest and knowledgeable man. They TRUSTED Louis McFadden and their trust was well founded. He served with distinction for TWENTY YEARS in the Congress of these United States, TWELVE of which were spent as Chairman of the House Committee on Banking and Currency. Congressman McFadden was held, even by his opponents, to be one of the foremost banking authorities in the country. It's time the American people unplugged their ears and LISTENED to the people who speak with authority and considered what they have to say. The country they save may be their own.

There has been a great deal of propaganda spread around over the past few years by well-meaning patriots and by organizations which 'front' as patriotic, about how we don't really need gold and silver behind our dollar or that Federal Reserve Notes are not worthless because you can go down to the corner and turn them in for 'something of value.' Neither is true.

The Federal Reserve Note is a PROMISE to pay a LAWFUL dollar, as defined by an Act of Congress. As long as LAWFUL dollars ARE paid, upon demand of the holder of said Note, at PAR value (one COIN dollar, for a one dollar note) those 'Fed Notes' ARE good as legal tender for all debts public and private.

It is when the government CEASES to honor its OBLIGATION to CONVERT the legal tender to LAWFUL money (coin dollar) that they then cease to be legal tender, no matter how many times the government prints on the bills that they ARE. The mere fact that the present government insists they ARE legal tender, against all the law that says they're NOT, proves beyond ANY doubt that we have a government that CONTINUALLY breaks the law and what can you call that, but a criminal government?

To counter this argument, the government says in effect, "Oh, well, we REMOVED the promise to pay, therefore there is no obligation." Well, the Supreme Court had something to say about that, too. Speaking of the government's obligation to 'pay up' when it makes a promise, it said,

". . .the government seems to deduce the proposition that when, with adequate authority, the government borrows money, and pledges the credit of the United States, it is free to ignore that pledge and alter the terms of its obligations, in case a later Congress finds their fulfillment inconvenient . . . The contention necessarily imports that the Congress can disregard the obligations of the government at its discretion and that, when the government borrows money, the credit of the United States is a illusory pledge. . . .WE DO NO SO READ THE CON STITUTION . . . To say tha Congress may withdraw o ignore that pledge, is to assum that the Constitution conten plates a vain promise, a pledg having no other sanction tha the pleasures and convenience o the pledger. THIS COURT HA GIVEN NO SANCTION TO SUCH A CONCEPTION O THE OBLIGATION OF OU GOVERNMENT." Perry United States, 204 US 33 (1935)

This Perry decision goes on t say,

"The Congress CANNOT i voke the sovereign power of th people to override their wi . . .Having this power to autho ize the issue of definite obl gations for the payment o money borrowed, the CON GRESS has NOT been VESTE WITH AUTHORITY TO ALTER OR DESTROY THOS OBLIGATIONS."

Even the government's pe case, Knox v. Lee, which the always quote in defense of the unlawful repudiation to give th citizens lawful COIN DOLLAR for the phoney 'Fed Notes' su

". . .through whatever changes they pass, their ultimate destiny IS to be paid. "Knox Lee, 12 Wall 552 at pg. 561

On March 18, 1968 Presid Johnson signed the bill remov the last bit of silver from Fed 'dollar,' thereby repudiat the government's promise to lawful money for the le tender 'Fed Notes' and wit that promise, they have VALUE. It is a matter of la not of social acceptance o business practice. The Co did not say that a lawful was a loaf of bread or a eggs and therefore that what makes a Fed Note va Why else do you s European shopkeepe businessmen STOPPED ing phoney 'Fed dollars' March 18, 1968 THEY

Continued on page

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that Fed Notes were valueless and when the lid blows, as it must, they don't want to get stuck with a lot of worthless paper. It's that simple. Why don't Americans understand that? It's no wonder Europeans spit when you mention the United States. They have no respect for us because we are supporting a system that will lead to WORLD depression and which will drag THEM down with US. The world economy has been purposely maneuvered to center around the American dollar so that when the dollar was destroyed by the international bankers, the whole world would topple with it, into their laps. This is the world revolution that's taking place. Every ignorant European peasant understands it, but ask the manager of your local bank about it. You won't find one in a thousand that believes OR understands it. The Bank BOARDS understand it WELL, but very few others do. Congressman McFadden understood it so well, that it cost him his life. After being shot at twice and poisoned once he was finally 'eliminated' on the fourth try with an induced heart attack, which is no problem for the twentieth century assassins. (This is testified to at length in the letters of Leon Trotsky to the President of France written in 1925 from Mexico.)

Thomas Jefferson understood it too. He said,

"If the American people EVER allow private banks to control the issue of their money first by inflation then by deflation, the banks and corporations that will grow up around them will deprive the people of their property until their children will wake up homeless on the continent their fathers conquered."

Andrew Jackson understood it too when he destroyed their little scheme and threw the international bankers out of this country by vetoing the Renewal Bill for the 'Bank of the United States.' In explanation of his veto he wrote in 1832:

"Their (the bankers) power would be great whenever they might choose to exert it; . . . if any private citizen or public functionary should interpose to curtail its powers or prevent a renewal of its privileges, it cannot be doubted that he would be made to FEEL its influence.

Controlling our currency, receiving our public moneys (income tax paid on nat'l. debt) and holding thousands of our citizens in dependency it would be more formidable and dangerous than the naval and military power of the enemy."

Senator Malone understood it in 1957 when he questioned Mr. Wm. McChesney Martin, who was Chairman of the Federal Reserve Board, during the hearings of the Senate Finance Investigating Committee. Senator Malone said:

"I believe, I actually believe this, that IF the people of this nation FULLY understood what the Congress has done to them over 49 years, THEY WOULD MOVE ON WASHINGTON, THEY WOULD NOT WAIT FOR AN ELECTION . . . It all adds up to a preconceived PLAN TO DESTROY THE ECONOMIC and social INDEPENDENCE of the United States Now not only is there NO AUTHORITY on the part of the Congress to DELEGATE its RESPONSIBILITY under Article 1, section 8, paragraph 5 of the Constitution, but the Supreme Court, in the case of Ling Su Fan v. United States Government held, their power to be NONdelegatable." (See: Ling Su Fan v. U.S., 218 U.S. 302)

Let us examine further what the United States Supreme Court says about our dollar.

"The dollar is an engagement to PAY a dollar and the dollar intended is the COIN DOLLAR of the United States; a certain quantity in weight and fineness of gold or silver, authenticated as such by the stamp of government." N.Y. ex rel Bank of New York v. Bd. of Supervisors of N.Y. County, 74 U.S. 26

We are speaking here, of LAW, not opinion, social habits, or even of business practices, but of LAW, and the law says further:

"Taking the DEFINITION FROM THE STATUTE BOOK, 'dollar' is a silver coin weighing 412½ grains or a gold coin weighing 25-4/5 grains of 9/10 fine alloy of EACH metal." Boric v. Trott, PA., 5 Phila. 366, 404.

The fed lawyers in the Justice Department in Washington always like to quote Knox v. Lee, in defense of Fed Notes as 'legal tender,' but they do so, OUT OF CONTEXT.

This Supreme Court case says:

"The legal tender acts do not attempt to make paper a standard of value . . . nor do we assert that Congress may make anything which has NO value, money." Knox v. Lee, 12 Wall 552.

Under the law, a 'note' is a promise to pay and is negotiable because there is something of value to be paid to the holder of that note. BUT – when you take your 'Fed Note' to the bank to be paid off in something of value (COIN dollars of PRESCRIBED weight set forth in an Act of Congress) what do you get? DO you get dollars? No. You get MORE PROMISES ('Fed Notes').

Senator Malone and Congressman McFadden were quite right. There is indeed a plan for the economic destruction of America and both Karl Marx and Lenin admitted it. Lenin said,

" . . .the BEST way to destroy the capitalist system is to DEBAUCH THE CURRENCY. By a CONTINUING process of INFLATION government can confiscate, SECRETLY and UNOBSERVED, an important part of the wealth of its citizens." Lenin

This quotation was used by Lord Keynes, the socialist economist in his book, "Consequences of the Peace" published in 1923. ('President' Nixon has admitted he is a follower of Keynesian economics.)

DEPARTMENT OF THE TREASURY

BUREAU OF ENGRAVING AND PRINTING

WASHINGTON, D.C. 20228

January 22, 1975

Mr. A. J. Porth
Tax Consultant
99 S. Raymond Avenue
Pasadena, CA 91105

Dear Mr. Porth:

This is in response to your letter of January 20 concerning currency and the Federal Reserve System.

The answer to your first question is yes. This Bureau engraves and prints all United States paper currency.

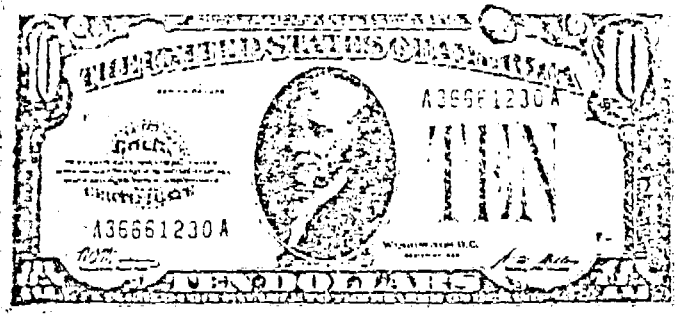
Based on orders from the Board of Governors, Federal Reserve System, we print for and deliver paper currency to that agency at a cost of slightly in excess of 1¢ per note for any denomination.

Your last question is one that would have to be answered by the Federal Reserve System. Accordingly I have referred your letter with a copy of this reply to:

Board of Governors
Federal Reserve System
Washington, D.C., 20551

Sincerely yours,

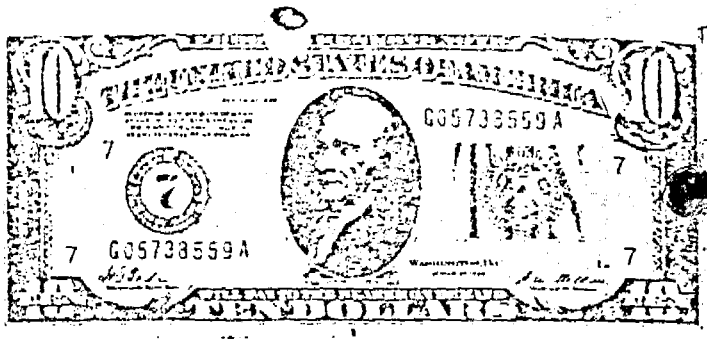
H. T. Krisak
Superintendent
Management Services Division



SERIES 1928 GOLD CERTIFICATE

The promises printed on this certificate state:

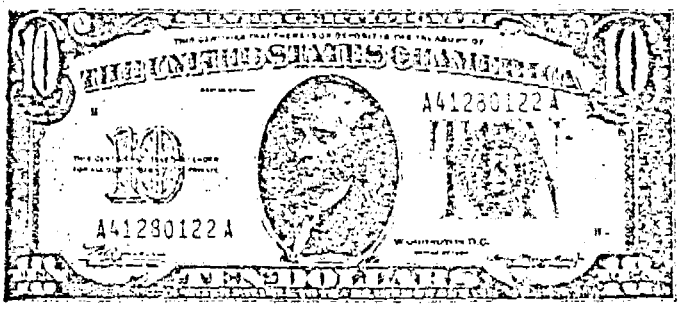
"This certifies that there have been deposited in the treasury of the United States of America, Ten Dollars in Gold Coin payable to the Bearer on Demand.



SERIES 1928 FEDERAL RESERVE NOTE

The promises printed on this note state:

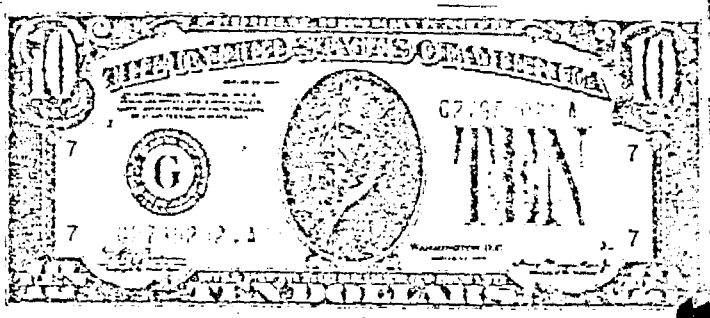
"The United States of America will pay to the Bearer on Demand Ten Dollars. Redeemable in Gold on Demand at the United States Treasury."



SERIES 1934 SILVER CERTIFICATE

The Promises printed on this Certificate state:

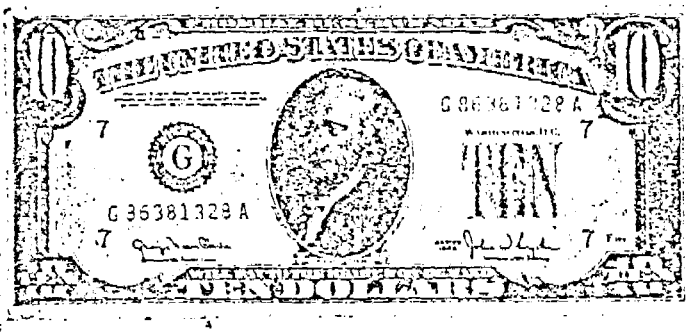
"This certifies that there is on deposit in the Treasury of the United States of America, Ten Dollars in Silver payable to the Bearer on Demand."



SERIES 1934 FEDERAL RESERVE NOTE

The Promises printed on this Note state:

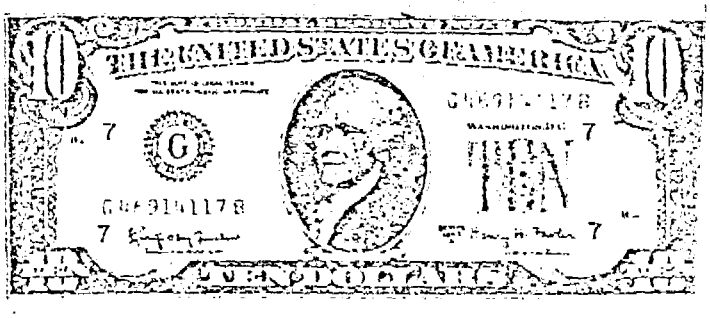
"The United States of America will pay to the bearer on Demand Ten Dollars. Redeemable in Lawful Money at the United States Treasury."



SERIES 1950 FEDERAL RESERVE NOTE

The Promises printed on this Note state:

"The United States of America will pay to the Bearer on Demand Ten Dollars. Redeemable in Lawful Money at the United States Treasury."



SERIES 1963 FEDERAL RESERVE NOTE

The Promises* printed on this Note state:

*THERE ARE NO PROMISES!

No promise to pay the bearer Ten Dollars on Demand.

No promise to redeem for anything of value.

...from the book: "STAY TUNED FOR THE NEXT DEPRESSION BROUGHT TO YOU

TAYLOR COMMENTARY: Mesa Tribune, January 20, 1971

Big Brotherism Grows

By HENRY J. TAYLOR

Behind the scenes, a U.S. Senate subcommittee finds that 23 Federal agencies now have direct access to our citizens' income tax returns for an official total of 109 reasons. This is not only outrageous but totally dangerous. How come, Big Brother?

The potential abuses are self-evident. Your income tax declaration and all that can be construed from it probably the most private, intimately revealing thing demanded of citizens — started out to be inviolate. Most of the 72 million filers think it is. But, dig out the truth, and what's happening is as bad as if a zoo's walls were crumbling and every animal from wart hogs to grizzly bears were galloping loose.

The harassed Internal Revenue Service is not responsible for this. The outside agencies contrived their own intrusions to the IRS's utter dismay. But what an outrageous opening for scattered bureaucratic insiders, and for crooks, pressure boys, spite artists, political opponents, business rivals and others who can quietly get your declaration by cozy relationships, bribery and other means.

Did you know your tax return is merely up for grabs once you deliver it to Big Brother?

Some of the motives behind the 109 so-called reasons for this permitted intrusion by the 23 agencies are obscure, and certainly the result contains long-range potentials involving the threat of repression. Like Topsy, the number of intruding agencies and the 109 so-called reasons "just grew and grew." Government abuses can acquire their own momentum and grow to have a life of their own, like a spreading cancer.

A roar of national protest should put a stop — and at once — to this and the government's other undercover, unrevealed expansions. Each is one of the hidden activities that is putting an increasing strain on the democratic traditions of American life. How long can these hidden prostitutions of our intended government continue without wrecking every democratic concept in our democratic system?

When a news writer revealed that Army intelligence agents admittedly spied on senatorial candidate Adlai Stevenson III and other Illinois campaigners, New York students, etc., the bureaucratic alibis and buck-passing began. But these secret intruders had invaded the privacy of Americans everywhere like termites covering a log. The official who gave them the opportunity (still unexposed) should have been fired out of hand. Can anything stop abuses like this except the outraged fear of public opinoin?

The hodgepodge of Washington bureaus is installing data processing computers at the astounding rate of about 500 a year, with an emphasis on piling up information about citizens everywhere. This shocker goes beyond the installation and paper-work costs, although these alone are as enormous as they are inexecusable.

For example, the Civil Service Commission, on inquiry, replies that, yes, it now does compile "lead information relating to possible questions" that might come up about countless people. The Justice Department lists 13,200 names of persons known to have urged violence. The Secret Service has developed a Gargantuan file of "persons of interest," including those whose only bid for Secret Service attention is their criticism of government policies. And so it goes. Are we to be curled into a ball of fear?

In the right of privacy or any other right it is a common habit of citizens to cherish it more because they have lost it. But then it is too late. The losses usually come gradually. "It couldn't happen here" is a suicidal philosophy.

Big Brother's intrusion into our American life is not new, nor is its expansion schemed and planned in the sense of a sinister design, of course. Actually, it's a drift. But the drift is on for sure and, for one thing, electronic technological advances are speeding the drift frighteningly.

Today's data processing advances allow Big Brother to acquire, store and use the tremendous files of information Big Brother collects on each of us with a correlation and speed which completely changes the potential for the invasion of privacy.

Even the vastly expanded questions in the 1970 census contribute their heavy share. This is not a count of our population as the Constitution demands. It is, instead, a systematic penetration of our privacy, undoubtedly useful but expanded nevertheless in accord with the sprawling cancer.

The Romans asked: "Who is watching the watchman?" Well, let us ask that question now — and how!

FREEDOM

U.S. No. XI Dec. Feb

INSIDE THE IRS

The Internal Revenue Service has recently been forced to defend its policies and actions from the mounting criticisms of Congress, the media, churches, attorneys, lay groups, clubs and individuals. This growing Tax Rebellion (Freedom X), however, has come from outside the IRS. Criticism from within has been noticeably absent.

With Freedom's exclusive disclosure of nearly 300 pages of confidential IRS documents, the silence began to break.

As a result of a radio talk show on the IRS Papers, a gentleman identifying himself as a former IRS agent of 15 years service called one of our editors, commending FREEDOM for its action. Then, motivated by a belief that only a full-scale investigation and reform from Congress would be the answer to IRS inequities, he agreed to an exclusive FREEDOM interview to tell our readers what it is like to work inside the IRS.

Dean Boyd lives in a small, comfortable home in the hills of Marin County, California. With a dog and two cats sometimes interrupting the conversation, FREEDOM spent the afternoon with Boyd and asked him about the IRS.

FREEDOM: What might get you in trouble?

BOYD: Questioning IRS policy or making suggestions like there should be the equivalent of public defenders for taxpayers.

FREEDOM: Speaking of trouble-makers, did you ever know of instances where an audit was ordered for no other reason than to just "get" someone?

BOYD: Sure. You have to remember that in the old days IRS was used as a tool to get those they couldn't get any other way. Al Capone was knocked off by the IRS. If the IRS makes up its mind to go after someone, they do. It comes down from higher up. We just get a "Check into so-and-so and stay on it til you find something." An interesting coincidence, if you want to call it that, was that I got a letter from IRS saying they couldn't find my 1970 return a week after I talked to you on that radio show.

FREEDOM: Do you think it was a coincidence?

BOYD: Maybe. Maybe not. They don't like criticism.

FREEDOM: What determines if someone "higher up" wants an investigation in order to just get someone?

BOYD: They are usually politically active, critical of the IRS or Treasury. You get a number of those.

FREEDOM: Where do such orders come from?

BOYD: The agent never knows. The group chief passes it on from the District who gets it from Regional who gets it from National. It would always come down verbally, nothing written. We were just told who and to stay with it until we found something.

FREEDOM: How is this done?

BOYD: There is not a return in the world that an agent can't either find something wrong with or even change to trip up the taxpayer.

FREEDOM: Can you give an example?

BOYD: About the simplest is with a business. You've examined the records and everything is fine, no problem. It is a "no-change" case. But the business has this building it is writing off as depreciation over, say, 30 years. The agent looks around and says "I think it should be 40 years" and, just like that we've got a new tax to put on him.

FREEDOM: Have you worked on cases where all you were doing was carrying out orders to just get someone?

BOYD: A number of times, I'm sorry to say. We were always able to find something sooner or later.

Mesa Tribune

Page Four Thursday, April 8, 1976

Tom Tiede

IRS Excesses Give Uncle Sam A Black Eye

By TOM TIEDE

WASHINGTON (NEA) — No arm of government is more detested than that of the Internal Revenue Service, and too often with good reason.

It's not that the agency just takes people's money, it's how it does it, or what it does if it can't. The press regularly and wearily report on the occasion of some poor devil somewhere who, after months or years of IRS harassment and abuse, sticks a rifle into his mouth and blows his fears away.

And then there are those who try to stick it out such as Karl Bray of Salt Lake City, Utah, lately of Terminal Island Federal Penitentiary in San Pedro, Cal. No guns for him. Just bars, self-rot and a future that is more of the same.

Bray was a radio commentator when, in the summer of 1971, the IRS came like Brown Shirts into his life. As part of a regular talk show program, he invited a militant "tax resister" named Marvin Cooley to air his views. Cooley did, saying that he was avoiding his own taxes and advising others to join him in what he called the IRS violations of First and Fifth Amendment rights. Local federal authorities were greatly annoyed, thereafter targeting Bray for close watch and mischief. For starters, they had him fired from his job.

Understandably, the intrusion irked Bray, a libertarian who, if he thought little of the IRS bureaucracy before it came down on him, thought less of it after. He began to organize similarly dissatisfied citizens in Salt Lake City, eventually urging tax protest rallies and tax revolt. His wife, who speaks for her hoodlum husband now that he's safely locked away, says that the more Bray protested, the angrier the IRS became: "The thing about Karl is that he went public, and the IRS just wouldn't stand for it."

(Cooley, a Mesa resident, was later also sentenced in a tax case and has also been serving a term at Terminal Island.)

In retaliation over the next two years, IRS agents allegedly tapped the Bray's phone, nosed about the neighbors asking poisoned questions, even tried to dissuade people from associating with him in business (after the radio job, Bray was self-employed as a dealer in precious metals). Once, says Mrs. Bray, he was hauled off to the police station for nonpayment of a simple parking ticket. Another time he was stopped on a freeway by 12 police cars and 25 officers who said they'd gotten word that he had stolen property in his car.

Finally, he was taken to court as a tax chisler. He received a six-month sentence for illegal possession of an IRS document (a harmless piece of paper which any citizen may obtain today through proper channels). He was then given a year each on two counts of tax evasion. He is serving his time (six months now) in a medium security prison where he has come to the attention of the warden for his attempts to interest other prisoners in the tax revolt movement.

Admittedly, it is impossible to write of Karl Bray without mixed feelings. Distateful as it is, and perhaps it is even technically illegal, government tax collection necessary, and the cooperation of citizens is vital. Yet there can be nothing but contempt for law enforcement when it becomes, as in Bray's case, enforcement excess.

Actually, it may even be argued that all things being equal Bray should not be in jail at all. Millions of Americans cheat on their tax payments annually, many of them known to the IRS, yet only a handful are ever prosecuted (about 1,500 a year). Many people even advise the government they are chisling, usually for antiwar or anti-armament purposes, and yet are not thrown in jail. Indeed, the IRS closes its eyes to most tax cheating because it does not have the ability to throw legions of Americans in the slams.

And then there is another, more important consideration here. We have learned from Watergate that our tax returns can be used against us, politically or otherwise. We have learned from experience that our tax money is reoutinely squandered. And we have learned from the founders that we must not be docile in the face of government abuse.

In this regard, activist Bray may not be so dastardly a fellow after-all.

U. S. DEPARTMENT OF JUSTICE

WASHINGTON, D. C.
20530

April 1, 1970

Honorable Robert C. Zampano
Judge, United States District Court
Post Office Building
141 Church Street
New Haven, Connecticut

Re: United States V. Vivien Kellens
No. 13, 665

Dear Judge Zampano

Mr. Jeffrey Snow of this office, handling the above-styled case, has informed me that he had a short conversation with you on March 31, 1970. As you know it is the wish of this office, having studied the transcript of the hearing to withdraw our request for enforcement of the three summonses at issue. We are of the opinion that Miss Kellems has properly pleaded the Fifth Amendment privilege against self-incrimination as to her payment records.

We have prepared the enclosed order for your signature.

Sincerely yours

JOHNNIE M. WALTERS
Assistant Attorney General
Tax Division

Enclosure

By:
JOHN M. McCARTHY
Chief
General Litigation Section

CC. Steward H. Jones, Esq.
United States Attorney
Post Office Building
141 Church Street
New Haven, Connecticut 06508

Attn: Richard L. Winter, Esq.
Assistant United States Attorney

Miss Vivien Kellems
Newberry Road
East Haddam, Connecticut 06423

FURTHER CONFUSION ABOUT "OBLIGATIONS" OF THE UNITED STATES

Title 12 of the United States Code (Banks and Banking) in Section 411 declares that Federal Reserve Notes "shall be obligations of the United States", and that "they shall be redeemed in lawful money on demand" by the US Treasury or any Federal Reserve Bank.

The 9th Circuit Case No. 72-1666, Milam v. US, held that to attempt to redeem Federal Reserve Notes in silver or gold was "frivolous". If you wish to redeem the notes in worthless paper, fine.

31 USC (Money and Finance) Section 757c-4 states:

> In the case of obligations issued after March 3, 1971, under this Act OR ANY OTHER PROVISION OF LAW, the terms and conditions of issue shall not permit the redemption before maturity of such obligation in payment of any tax imposed by the United States in any amount above the fair market value of such obligation at the time of such redemption...[Emphasis added]

This leads to several questions. Since Federal Reserve Notes have been irredeemable since March 18, 1968 in the silver and gold coin provided for by the Constitution, then when is the "maturity" date of such notes? If the maturity date is NOW--on demand--then how can the notes be credited for more than their "fair market value" as taxes?

And if they cannot be received for more than their "fair market value" in the payment of taxes, how can they be chargeable for more than their "fair market value" in alleging tax liability?

If any circulated standard silver dollar is available from a coin shop for, say, 5 Federal Reserve Notes in the case of a coin which is not "rare" by collectors' standards, then is this the "fair market value" of all Federal Reserve Notes and their check-book equivalent--say, 5 to 1?

Since 31 USC 314 directs the Secretary of the Treasury to maintain a "parity" of all coins and currencies of the US in relation to the "gold dollar" of 1/42.22 troy ounce of pure gold as set in Section 449, we are vainly waiting for the setting of such "parity" and eager to see how it differs from the "fair market", "nominal" and "par" value of true "standard" silver or gold dollars. The Secretary is apparently afraid to comply with his statutory duty to declare the parity demanded, because he knows how ridiculous it will appear when he declares a "sandwich" dime to be worth 10 times more than a current penny--when knowledgeable persons know that at the end of 1974 a silver dime had a metallic content worth 33 cents, while a "sandwich", or "clad" dime was worth only 4/10ths of one cent--which is less than the metallic worth of the penny currently in circulation!

The currently minted cupro-nickel "dollar" is worth about 4 cents. Compare that to the pre-1964 dime which was worth 33 cents in metal content. Now talk about "parity" and feel sorry for the ridiculous and impossible position of the Secratary of the Treasury.

Section 392 proclaims all coins and currencies of the US to be "legal tender" for debts, public and private. Again, is "legal tender for debt" the same thing as "legal tender for the PAYMENT of debt"? Under the Constitution does the Congress have the right to REGULATE the value of the "money" they coin? If so, do they have the right to utterly DESTROY and ABOLISH the value of money?

Section 311 proclaims that it is the policy of the United States to continue the use of both silver and gold as "standard" money and to insure "the EQUAL POWER OF EVERY DOLLAR AT ALL TIMES IN THE MARKETS AND IN THE PAYMENT OF DEBTS."

Since this has not been repealed, who is sabotaging the "policy of the United States"? Were it not better said, "It shall be the policy of the United States to permit the greatest swindle of all history by the private owners of the Federal Reserve System"?

Section 463(a) purports to declare it against public policy for any "obligee" to require payment in "a particular kind of coin or currency". Where the "planners" cut their own throat on this one is in the next subsection (b) wherein they say "the term "obligation" means an obligation (including every obligation of and to the United States, EXCEPTING CURRENCY) payable in money of the United States; and the term "coin or currency" means coin or currency of the United States, including Federal Reserve notes and circulating notes of Federal Reserve banks and national banking associations".

If one who holds currency has no "obligation" of the United States, then he might not be an "obligee" barred from demanding payment in "a particular kind of coin or currency". Admittedly, the whole array of statutes is enough to choke a horse and to confuse every sensible person who attempts to follow it through.

The significant thing about this mass of confusion regarding "money", is that there are a multiplicity of criminal statutes based upon money. In all jurisdictions it is acknowledged that statutes which are "vague" to the point that a reasonable person cannot be sure of which conduct could be illegal--can be struck down as unconstitutional. A person "required" to file an income tax return is ordinarily one who has a gross income in excess of 750 Dollars.

Now, who can define a dollar? I seriously doubt that a half-dozen persons in the United States can define a dollar without running afoul conflicting statutes. And once the Dollar is defined does it have a "parity", "fair-market", "par", "nominal"--or what-have-you" value?

If the Government goes against its own declared public policy of maintaining bi-metallism and an equal power of all types of "dollars", and of maintaining an announced parity of all coins and currencies to the "standard" gold dollar (as "permitted under Section 821 and commanded by Section 314), then which "reasonable" citizen is not confused?

Legislative acts creating crimes (wilful failure to file, for example) must be clear and certain. They must provide reasonable and adequate guidance to a person who would be law-abiding so that he can comprehend what activity is to be avoided. Winters v New York,

(1948) 333 US 507; Lanzetta v New Jersey (1939) 306 US 451; US v Cardiff, (1952) 344 US 174; Papachristou v City of Jacksonville, (1972) 405 US 156.

The demand of certainty and clarity is necessary for many reasons:

(a) Persons subject to the law cannot in fairness be exposed to governmental controls which trap them. People v O'Gorman, (1937) 274 NY 284, 8 NE2d 862, 110 ALR 1231.

(b) Vague and indefinite regulations deter people from perfectly lawful conduct. Connor v Birmingham (1952) 257 Ala 588, 60 So 2d 479. Especially must this be condemned where freedom of communication is concerned [such as in a constitutional, protest-type of a tax-return], for here society itself is the loser in being deprived of new ideas and literature. Winters v New York (1948) 333 US 507.

(c) Vague laws give public servants opportunities to apply the law arbitrarily, with favoritism, and with invidious discrimination, as they please. Oregon Box & Mfg. Co. v Jones Lumber Co., (1926) 117 Or 411, 244 P 313.

(d) When charged with violation of the statute or ordinances, a citizen must have reasonable information of the charge against him, so that he can plead to it and prepare a defense against it. Dunn v Wilmington, (1965, Del) 212 A2d 596, aff'd (Del Sup) 219 A 2d 153.

(e) Juries and judges cannot reasonably come to conclusions of guilt or innocence when it is uncertain what the lawmakers intended to proscribe. Cf. Sea Isle City v Vinci, (1955) 34 NJ Super 273, 112 A2d 18; People v Caswell-Massey Co. (1959) 6 NY2d 497, 190 NYS2d 649, 160 NE2d 895.

(f) Unless it is certain for what a citizen is being punished, the rule against double jeopardy is ineffective. Cf. Dunn v Wilmington, (1965, Del) 212 A2d 596, aff'd (Del Sup) 219 A2d 153.

In vacating a conviction under a Utah statute permitting the punishment of those who conspire "to commit acts injurious to public morals", the Supreme Court stated:

> Legislation may run afoul of the Due Process Clause because it fails to give adequate guidance to those who would be law-abiding, to advise defendants of the nature of the offense with which they are charged, or to guide courts in trying those who are accused. Musser v Utah, (1948) 333 US 95.

Courts will set aside convictions under statutes and ordinances which were unduly vague and which did not adequately warn the defendants that their conduct would be criminal. Bouie v Columbia, (1964) 378 US 347.

Charging a person in the language of an unconstitutionally vague statute or ordinance is violative of his Constitutional rights. Shreveport v Brewer, (1954) 225 La 93, 72 So 2d 308.

The average citizen cannot be sure of what is meant by a "dollar" anylonger. No wonder he is filing protest type tax returns, or refusing to file any at all!

NO TAX ON RIGHTS

By CLAIRE KELLEY

"FRAUD: An intentional perversion of truth for the purpose of inducing another in reliance upon it, to part with some valuable thing belonging to him or to surrender a legal right..."

Byron Foote's book, "HAPPY TAXPAYING" pages 158 to 172 make the fraud of the present income tax system quite clear.

These particular pages present the law supporting Bill Hanks' claim, that he is not a person required, to file an income tax 'return,' under the law.

Article I, sec. 8, cl. 1 of the U.S. Constitution sets forth only three kinds of taxes which the Congress may lay and collect, which are, duties, imposts and excises.

It is settled law that the 'intent' of the lawmakers is the law.

It is also settled that the 'income tax' is an excise tax.

This leaves us with two basic questions, (1) What was the 'intent' of the Congress in proposing the 16th Amendment?(2) Exactly what is an 'excise' tax?

First, the intent of the Congress was made quite clear in the Congressional debates of 1909 in various Congressional Records.

It seems that there was some concern that the U.S. Supreme Court might declare the tax on corporate income unconstitutional and they sought to prevent this proposing the 16th Amendment.

It was then held by many, that the 16th Amendment provided for a new type of direct tax, previously unknown, but the Supreme Court said not so and also held that,

"The contention that the (16th) Amendment treats a tax on income as a direct tax...is also wholly without foundation." Brushaber v. Union Pacific R.R., 240 U.S. 1

The fact that,

"The Congress shall have power to lay and collect (excise) taxes on incomes..."

does not mean that citizens who earn $750 (or whatever) are qualified to pay taxes on their incomes.

The confusing thing about this up to now is the fact that the word 'excise' was left out of the 16th Amendment, even though it is well-established and documented that the Amendment did set up an excise tax on incomes.

That brings us to the next question, "What is an excise tax?"

"An excise is an impost for a license to pursue certain things or to deal in special commodities or to exercise particular franchises." East Ohio Gas Co. v. Tax Commissioner of Ohio, 43 F. 2d 170, 172

This is further borne out by the Supreme Court which held,

"Excises are 'taxes laid...upon licenses to pursue certain occupations and upon corporate privileges. Cooley, Const. Lim. 7th Ed. 680." Flint v. Stone Tracy Co., 220 U.S. 107

Further discussing the Flint case, the Court held:

"The tax under consideration as we have construed the statute may be described as an excise upon the particular privilege of doing business in a corporate capacity...THE REQUIREMENT TO PAY SUCH TAXES INVOLVES THE EXERCISE OF PRIVILEGES.

"When the Constitution was framed the right to lay taxes was broadly conferred upon the Congress. At that time very few corporations existed...

"The thing taxed is not the mere dealing in merchandise, in which the actual transactions may be the same, whether conducted by individuals or corporations, but the tax is laid upon the privileges which exist in conducting business with the advantages which inhere the corporate capacity of those taxes...IT IS THIS DISTINCTIVE PRIVILEGE WHICH IS THE SUBJECT OF TAXATION, not the mere buying and selling of handling or goods which may be the same,

Hence, we come upon the meaning of making a 'return.' When an income tax is paid, it is something one 'returns' to the government in exchange for a special privilege given by the government to a corporation or a licensed individual (lawyer, docter, etc.)

Common law occupations are excluded because they are an inaleinable right, from God — not a privilege from government (selling, teaching, clerical work, most physical labor, etc.). The fact that the states have conned certain groups of people in common law occupations (i.e. teachers into being licensed does not change the fact that it is a violation of their constitutional right to work under their liberty secured in the Fifth Amendment, and also protected by the Ninth Amendment in the pneumbra of unwritten rights older than the Bill of Rights. (See Justice Goldberg's concurring opinion in Griswold v. Conn., 381 U.S. 479, (1964).

It is well to remember that,

"A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution." Murdock v. Penna., 319 U.S. 105

Simply put, to tax the incomes of working persons in the United States, merely because they exercise their constitutional right to work, which government was instituted to protect, was not established under the 16th Amendment, nor was it ever meant to be.

"If the State creates a corporation, it also has the right to demand a 'kickback' (tax) on the income which said corporation would not otherwise enjoy but for the privilege granted by the State.

Both the state and federal government are prohibited from taxing constitutionally protected rights (the 'telephone tax' is an infringement on this, because it taxes our right to free speech).

"There is no such thing in the theory of our national government as unlimited power of taxation in Congress. There are limitations of its power arising out of the essential nature of all free governments; There are reservations of individual rights, without which society could not exist and which are respected by every government. The right of taxation is subject to these limitations." Pollock v. Farmer Loan & Trust Co. 157 U.S. 429

The Internal Revenue Code (26 USC 7203) says, "Any person required..." to pay a tax must file a return or they can be charged with a misdemeanor or willful failure to file.

The words "ANY PERSON REQUIRED..." indicate that some persons are NOT required, otherwise the law would read "All persons are required..."

That leaves us with one final question: WHO is required? WHO must file an excise (income) tax 'return'? Clearly corporations and individuals licensed by the state who must pay a tax on their incomes IN RETURN for certain privileges extended to them by the State — no one else.

The government, legislative, executive and judicial have committed a fraud upon the People and the Lawyers in the Justice Department commit a fraud upon the courts by prosecuting innocent Americans like Bill Hanks, who are intelligent enough to know and claim their constitutional rights by refusing to pay a tax on their right to work, from which the law exempts them.

Is it any wonder that the government shivers in its boots for fear the People will learn the truth? That the entire government has conspired together, to defraud the American working people of their property, without due process of law, by being made to falsely believe, by threats of imprisonment and gross intimidation that they had to pay a tax from which the law exempts them.

Further, if you are not required to file, then you are not under the jurisdiction of the IRS of the Courts as regards audit.

It looks very much like Independence Day all over again, and as Byron Foote says, "Hail Victory!"

Declaration of Independence

IN CONGRESS, JULY 4, 1776

The unanimous Declaration of the thirteen united States of America,

WHEN in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. — Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil Power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their acts of pretended Legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from Punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing taxes on us without our Consent:

For depriving us in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offenses:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with Power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the Protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

★ ★ ★

AMENDMENTS TO THE CONSTITUTION

(The first ten Amendments, usually called the Bill of Rights, went into effect December 15, 1791.)

★ AMENDMENT I ★

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

★ AMENDMENT II ★

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

★ AMENDMENT III ★

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

★ AMENDMENT IV ★

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

★ AMENDMENT V ★

No person shall be held to answer for a capital or other infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

★ AMENDMENT VI ★

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

★ AMENDMENT VII ★

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

★ AMENDMENT VIII ★

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

★ AMENDMENT IX ★

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

★ AMENDMENT X ★

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

* * *

★ AMENDMENT XIV ★

(adopted 1868)

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

SECTION 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, *excluding Indians not taxed.*[3] But when the right to vote at any election for the choice of electors for President and Vice President of the United States, representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state being of twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.[4]

SECTION 3. No person shall be a senator or representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

* * *

★ AMENDMENT XVI ★

(adopted 1913)

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

AN EXCERPT FROM THE BOOK
"TRIAL BY JURY"
by Lysander Spooner
Published 1852

Chapter One — The Right of Juries to Judge of the Justice of Laws.

For more than six hundred years — that is, since Magna Carta, in 1215 — there has been no clearer principle of English or American constitutional law, than that, in criminal cases, it is not only the right and duty of juries to judge what are the facts, what is the law and what was the moral intent of the accused; *but it is also their right, and their primary and paramount duty, to judge of the justice of the law, and to hold all laws invalid, that are, in their opinion, unjust or oppressive, and all persons guiltless in violating, or resisting the execution of such laws.*

Unless such be the right and duty of jurors, it is plain that, instead of juries being a "palladium of liberty" — a barrier against the tyranny and oppression of the government — they are really mere tools in its hands, for carrying into execution any injustice and oppression it may desire to have executed.

But for their right to judge of the law, *and the justice of the law*, juries would be no protection to an accused person, *even as to matters of fact*; for, if the government can dictate to a jury any law whatever, in a criminal case, it can certainly dictate to them the laws of evidence. That is, it can dictate what evidence is admissible, and what inadmissible, *and also what force or weight is to be given to the evidence admitted.* And if the government can thus dictate to a jury the laws of evidence, it can not only make it necessary for them to convict on a partial exhibition of the evidence rightfully pertaining to the case, but it can even require them to convict on any evidence whatever that it pleases to offer them.

That the rights and duties of jurors must necessarily be such as are here claimed for them, will be evident when it is considered what the trial by jury is, and what is its object.

"The trial by jury," then, is a "trial by the country" — that is, by the people — as distinguished from a trial by the government.

It was anciently called "trial per pais" — that is, "trial by the country." And now, in every criminal trial, the jury are told that the accused "has, for trial, put himself upon the country; which country you (the jury) are."

The object of this trial "by the country," or by the people, in preference to a trial by the government, is to guard against every species of oppression by the government. In order to effect this end, it is indispensable that the people, or "the country," judge of and determine their own liberties against the government; instead of the government's judging of and determining its own powers over the people. How is it possible that juries can do anything to protect the liberties of the people against the government, if they are not allowed to determine what those liberties are?

Any government, that is its own judge of, and determines authoritatively for the people, what are its own powers over the people, is an absolute government of course. It has all the powers that it chooses to exercise. There is no other — or at least no more accurate — definition of a despotism that this.

On the other hand, any people, that judge of, and determine authoritatively for the government, what are their own liberties against the government, of course retain all the liberties they wish to enjoy. *And this is freedom.* At least, it is freedom *to them;* because, although it may be theoretically imperfect, it, nevertheless, corresponds to *their* highest notions of freedom.

To secure this right of the people to judge of their own liberties against the government, the jurors are taken, (or must be, to make them lawful jurors,) from the body of the people, *by lot*, or by some process that precludes any previous knowledge, choice, or selection of them, on the part of the government.

This is done to prevent the government's constituting a jury of its own partisans or friends; in other words, to prevent the government's *packing* a jury, with a view to maintain its own laws, and accomplish its own purposes.

It is supposed that, if twelve men be taken, *by lot*, from the mass of the people, without the possibility of any previous knowledge, choice, or selection of them, on the part of the government, the jury will be a fair epitome of "the country" at large, and not merely of the party or faction that sustain the measures of the government; that substantially all classes of opinion, prevailing among the people, will be represented in the jury; and especially that the opponents of the government (if the government have any opponents) will be represented there, as well as its friends; that the classes, who are oppressed by the laws of the government, (if any are thus oppressed), will have their representatives in the jury, as well as those classes who take sides with the oppressor — that is, with the government.

It is fairly presumable that such a tribunal will agree to no conviction except such as *substantially the whole country* would agree to, if they were present, taking part in the trial. A trial by such a tribunal is, therefore, in effect, "a trial by the country." In its results it probably comes as near to a trial by the whole country, as any trial that it is practicable to have, without too great inconvenience and expense. And as unanimity is required for a conviction, it follows that no one can be convicted except for the violation of such laws as substantially the *whole* country wish to have maintained. The government can enforce none of its laws, (by punishing offenders, through the verdicts of juries,) except such as substantially the whole people wish to have enforced. The government, therefore, consistently with the trial by jury, can exercise no powers over the people, (or, what is the same thing, over the accused person, who represents the rights of the people,) except such as substantially the whole people of the country consent that it may exercise. In such a trial, therefore, "the country," or the people, judge of and determine their own liberties against the government, instead of the government's judging of and determining its own powers over the people.

But all this "trial by the country" would be no trial at all "by the country" but only a trial by the government, if the government could either declare who may, and who may not, be jurors, or could dictate to the jury anything whatever, either of law or evidence, that is of the essence of the trial.

If the government may decide who may, and who may not, be jurors, it will of course select only its partisans, and those friendly to its measures. It may not only prescribe who may, and who may not, be eligible to be drawn as jurors, but it may also question each person drawn as a juror, as to his sentiments in regard to the particular law involved in each trial, before suffering him to be sworn on the panel; and exclude him if he be found unfavorable to the maintenance of such a law.

So, also if the government may dictate to the jury *what laws they are to enforce*, it is no longer a "trial by the country," but a trial by the government; because the jury then try the accused, not by any standard of their own — not by their own judgments of their rightful liberties — but by a standard dictated to them by the government. And the standard, thus dictated by the government, becomes the measure of the people's liberties. If the government dictate the standard of trial, it of course dictates the results of the trial. And such a trial is no trial by the country, but only a trial by the government; and in it the government determines what are its own powers over the people, instead of the people determining what are their own liberties against the government. In short, if the jury have no right to judge of the justice of a law of the government, they plainly can do nothing to protect the people against the oppressions of the government; for there are no oppressions which the government may not authorize by law.

The jury are also to judge whether the laws are rightly expounded to them by the court. Unless they judge on this point, they do nothing to protect their liberties against the oppressions that are capable of being practised under cover of a corrupt exposition of the laws. If the judiciary can authoritatively dictate to them the law itself, and such laws as they please; because laws are, in practice, one thing or another,

according as they are expounded.

The jury must also judge whether there really be any such law, (be it good or bad,) as the accused is charged with having transgressed. Unless they judge on this point, the people are liable to have their liberties taken from them by brute force, without any law at all.

The jury must also judge of the laws of evidence. If the government can dictate to a jury the laws of evidence, it can not only shut out any evidence it pleases, tending to vindicate the accused, but it can require that any evidence whatever, that it pleases to offer, be held as conclusive proof of any offence whatever which the government chooses to allege.

It is manifest, therefore, that the jury must judge of and try the whole case, and every part and parcel of the case, free of any dictation or authority on the part of the government. They must judge of the existence of the law; of the true exposition of the law; *of the justice of the law*; and of the admissibility and weight of all the evidence offered; otherwise the government will have everything its own way; the jury will be mere puppets in the hands of the government; and the trial will be, in reality, a trial by the government, and not a "trial by the country." By such trials the government will determine its own powers over the people, instead of the people's determining their own liberties against the government; and it will be an entire delusion to talk, as for centuries we have done, of the trial by jury, as a "palladium of liberty," or as any protection to the people against the oppression and tyranny of the government.

The question, then, between trial by jury, as thus described, and trial by the government, is simply a question between liberty and despotism. The authority to judge what are the powers of the government, and what the liberties of the people, must necessarily be vested in one or the other of the parties themselves — the government, or the people; because there is no third party to whom it can be entrusted. If the authority be vested in the government, the government is absolute, and the people have no liberties except such as the government sees fit to indulge them with. If, on the other hand, that authority be vested in the people, then the people have all liberties, (as against the government) except such as substantially the whole people (through a jury) choose to disclaim; and the government can exercise no power except such as substantially the whole people (through a jury) consent that it may exercise.

The force and justice of the preceding argument cannot be evaded by saying that the government is chosen by the people; that, in theory, it represents the people; that it is designed to do the will of the people; that its members are all sworn to observe the fundamental or constitutional law instituted by the people; that its acts are therefore entitled to be considered the acts of the people; and that to allow a jury, representing the people, to invalidate the acts of the government, would therefore be arraying the people against themselves.

There are two answers to such an argument.

One answer is, that, in a representative government, there is no absurdity or contradiction, nor any arraying of the people against themselves, in requiring that the statutes or enactments of the government shall pass the ordeal of any number of separate tribunals, before it shall be determined that they are to have the force of laws. Our American constitutions have provided five of these separate tribunals, to wit, representatives, senate, executive, jury, and judges, and have made it necessary that each enactment shall pass the ordeal of all these separate tribunals before its authority can be established by the punishment of those who choose to transgress it. And there is no more absurdity or inconsistency in making a jury one of these several tribunals, than there is in making the representatives, or the senate, or the executive, or the judges, one of them. There is no more absurdity in giving a jury a veto upon the laws, than there is in giving a veto to each of these other tribunals. The people are no more arrayed against themselves, when a jury exercise their veto upon a statute, which the other tribunals have sanctioned, than they are when the same veto is exercised by the representatives, the senate, the executive, or the judges.

But another answer to the argument that the people are arrayed against themselves, when a jury hold an enactment of the government invalid, is, that the government, and all the departments of the government, *are merely the servants and agents of the people*; not invested with arbitrary or absolute authority to bind the people, but required to submit all their enactments to the judgement of a tribunal more fairly representing the whole people, before they carry them into execution, by punishing any individual for transgressing them. If the government were not thus required to submit their enactments to the judgment of "the country," before executing them upon individuals — if, in other words, the people had reserved to themselves no veto upon the acts of the government — the government instead of being a mere servant and agent of the people, would be an absolute despot over the people. It would have all power in its own hands; because the power to *punish* carries all other powers with it. A power that can, of itself, and by its own authority, punish disobedience, can command obedience and submission, and is above all responsibility for the character of its laws. In short, it is a despotism.

And it is of no consequence to inquire how a government came by this power to punish, whether by prescription, by inheritance, by usurpation, or by delegation from the people? *If it have now but got it*, the government is absolute.

It is plain, therefore, that if the people have invested the government with power to make laws that absolutely bind the people, and to punish the people for transgressing those laws, the people have surrendered their liberties unreservedly into the hands of the government.

It is of no avail to say, in answer to this view of the case, that in surrendering their liberties into the hands of the government, the people took an oath from the government, that it would exercise its power within certain constitutional limits; for when did oaths ever restrain a government that was otherwise unrestrained? Or when did a government fail to determine that all its acts were within the constitutional and authorized limits of its power, if it were permitted to determine that question for itself?

Neither is it of any avail to say, that, if the government abuse its power, and enact unjust and oppressive laws, the government may be changed by the influence of discussion, and the exercise of the right of suffrage. Discussion can do nothing to prevent the enactment, or procure the repeal, of unjust laws, unless it be understood that the discussion is to be followed by resistance. Tyrants care nothing for discussions that are to end only in discussion. Discussion, which do not interfere with the enforcement of their laws, are but idle wind to them. Suffrage is equally powerless and unreliable. It can be exercised only periodically; and the tyranny must at least be borne until the time for suffrage comes. Besides, when the suffrage is exercised, it gives no guaranty for the repeal of existing laws that are oppressive, and no security against the enactment of new ones that are equally so. The second body of legislators are liable and likely to be just as tyrannical as the first. If it be said that the second body may be chosen for their integrity, the answer is, that the first were chosen for that very reason, and yet proved tyrants. The second will be exposed to the same temptations as the first, and will be just as likely to prove tyrannical. Whoever heard that succeeding legislatures were, on the whole, more honest than those that preceded them? What is there in the nature of men or things to make them so? If it be said that the first body were chosen from motives of injustice, that fact proves that there is a portion of society who desire to establish injustice? and if they were powerful or artful enough to procure the election of their instruments to compose the first legislature, they will be likely to be powerful or artful enough to procure the election of the same or similar instruments to compose the second. The right of suffrage, therefore, and even a change of legislators, guarantees no change of legislation — certainly no change for the better. Even if a change for the better actually comes, it comes too late, because it comes only after more or less injustice has been irreparably done.

But, at best, the right of suffrage can be exercised only periodically; and between the periods the legislators are wholly irresponsible. No despot was ever more entirely irresponsible than are republican legislators during the period for which they are chosen. They can neither be removed from their office, nor called to account while in their office, nor punished after they leave their office, be their tyranny what it may. Moreover, the judicial and executive departments of the government are equally irresponsible *to the people*, and are only responsible (by impeachment, and dependence for their salaries), to these irresponsible legislators. This dependence of the judiciary and

executive upon the legislature is a guaranty that they will always sanction and execute its laws, whether just or unjust. Thus the legislators hold the whole power of the government in their hands, and are at the same time utterly irresponsible for the manner in which they use it.

If, now, the government (the three branches thus really united in one), can determine the validity of, and enforce, its own laws, it is, for the time being, entirely absolute, and wholly irresponsible to the people.

But this is not all. These legislators, and this government, so irresponsible while in power, can perpetuate their power at pleasure, if they can determine what legislation is authoritative upon the people, and can enforce obedience to it? for they can not only declare their power perpetual, but they can enforce submission to all legislation that is necessary to secure its perpetuity. They can, for example, prohibit all discussion of the rightfulness of their authority; forbid the use of the suffrage; prevent the election of any successors; disarm, plunder, imprison, and even kill all who refuse submission. If, therefore, the government (all departments united) be absolute for a day — that is, if it can, for a day, enforce obedience to its own laws — it can, in that day, secure its power for all time — like the queen, who wished to reign but for a day, but in that day caused the king, her husband, to be slain, and usurped his throne.

Nor will it avail to say that such acts would be unconstitutional, and that unconstitutional acts may be lawfully resisted; for everything a government pleases to do will, of course, be determined to be constitutional, if the government itself be permitted to determine the question of the constitutionality of its own acts. Those who are capable of tyranny, are capable of perjury to sustain it.

The conclusion, therefore, is that any government, that can, *for a day*, enforce its own laws, without appealing to the people, (or to a tribunal fairly representing the people,) for their consent, is, in theory, an absolute government, irresponsible to the people, and can perpetuate its power at pleasure.

The trial by jury is based upon a recognition of this principle, and therefore forbids the government to execute any of its laws, by punishing violators, in any case whatever, without first getting the consent of "the country," or the people, through a jury. In this way, the people, at all times, hold their liberties in their own hands, and never surrender them, even for a moment, into the hands of the government.

The trial by jury, then, gives to any and every individual the liberty, at any time, to disregard or resist any law whatever of the government, if he be willing to submit to the decision of a jury, the questions, whether the law be intrinsically just and obligatory? and whether his conduct, in disregarding or resisting it, were right in itself? And any law, which does not, in such trial, obtain the unanimous sanction of twelve men, taken at random from the people, and judging according to the standard of justice in their own minds, free from all dictation and authority of the government, may be transgressed and resisted with impunity, by whomsoever pleases to transgress or resist it.

The trial by jury authorizes all this, or it is a sham and a hoax, utterly worthless for protecting the people against oppression. If it does not authorize an individual to resist the first and least act of injustice or tyranny, on the part of the government, it does not authorize him to resist the last and the greatest. If it does not authorize individuals to nip tyranny in the bud, it does not authorize them to cut it down when its branches are filled with the ripe fruits of plunder and oppression.

Those who deny the right of a jury to protect an individual in resisting an unjust law of the government, deny him all *legal* defense whatsoever against oppression. The right of revolution, which tyrants, in mockery, accord to mankind, is no *legal* right *under* a government; it is only a *natural* right to overturn a government. The government itself never acknowledges this right. And the right is practically established only when and because the government no longer exists to call it in question. The right, therefore, can be exercised with impunity, only when it is exercised victoriously. All *unsuccessful* attempts at revolution, however justifiable in themselves, are punished as treason, if the government be permitted to judge of the treason. The government itself never admits the injustice of its laws, as a legal defence for those who have attempted a revolution and failed. The right of revolution, therefore, is a right of no practical value, except for those who are stronger than the government. So long, therefore, as the oppressions of a government are kept within such limits as simply not to exasperate against it a power greater than its own, the right of revolution cannot be appealed to, and is therefore inapplicable to the case. This affords a wide field for tyranny; and if a jury cannot *here* intervene, the oppressed are utterly defenceless.

It is manifest that the only security against the tyranny of the government lies in forcible resistance to the execution of the injustice; because the injustice will certainly be executed, *unless it be forcibly resisted*. And if it be but suffered to be executed, it must then be borne; for the government never makes compensation for its own wrongs.

Since, then, this forcible resistance to the injustice of the government is the only possible means of preserving liberty, it is indispensable to all *legal* liberty that this *resistance* should be *legalized*. It is perfectly self-evident that where there is no *legal* right to resist the oppression of the government, there can be no *legal* liberty. And here it is all-important to notice, that *practically speaking*, there can be no *legal* right to resist the oppressions of the government, unless there be some *legal* tribunal, other than the government, and wholly independent of, and *above*, the government, to judge between the government and those who resist its oppressions; in other words, to judge what laws of the government are to be obeyed, and what may be resisted and held for nought. The only tribunal known to our laws, for this purpose, is a jury. If a jury have not the right to judge between the government and those who disobey its laws, and resist its oppressions, the government is absolute, and the people, *legally speaking*, are slaves. Like many other slaves they may have sufficient courage and strength to keep their masters somewhat in check; but they are nevertheless *known to the law* only as slaves.

That this right of resistance was recognized as a common law right, when the ancient and genuine trial by jury was in force, is not only proved by the nature of the trial itself, but is acknowledged by history.

This right of resistance is recognized by the constitution of the United States, as a strictly legal and constitutional right. It is so recognized, first by the provision that "the trial of all crimes, except in cases of impeachment, shall be by jury" — that is, by the country — and not by the government; secondly, by the provision that "the right of the people to keep and bear arms shall not be infringed." This constitutional security for "the right to keep and bear arms," implies the right to use them — as much as a constitutional security for the right to buy and keep food would have implied the right to eat it. The constitution, therefore, takes it for granted that the people will judge of the conduct of the government, and that, as they have the right, they will also have the sense, to use arms, whenever the necessity of the case justifies it. And it is a sufficient and legal defence for a person accused of using arms against the government, if he can show, to the satisfaction of a jury, *or even any one of a jury*, that the law he resisted was an unjust one.

In the American *State* constitutions also, this right of resistance to the oppressions of the government is recognized, in various ways, as a natural, legal, and constitutional right. In the first place, it is so recognized by provisions establishing the trial by jury; thus requiring that accused persons shall be tried by "the country," instead of the government. In the second place, it is recognized by many of them, as, for example, those of Massachusetts, Maine, Vermont, Connecticut, Pennsylvania, Ohio, Indiana, Michigan, Kentucky, Tennessee, Arkansas, Mississippi, Alabama, and Florida, by provisions expressly declaring that the people shall have the right to bear arms. In many of them also, as, for example, those of Maine, New Hampshire, Vermont, Massachusetts, New Jersey, Pennsylvania, Delaware, Ohio, Indiana, Illinois, Florida, Iowa, and Arkansas, by provisions, in their bills of rights, declaring that men have a natural, inherent, and inalienable right of "*defending* their lives and liberties." This, of course, means that they have a right to defend them against any injustice *on the part of the government*, and not merely on the part of private individuals; because the object of all bills of right is to assert the rights of individuals and the people, *as against the government*, and not as against private persons. It would be a matter of ridiculous supererogation to assert, in a constitution of government, the natural right of men to defend their lives and liberties against private trespassers.

Many of these bills of rights also assert the natural right of all men to protect their property — that is, to protect it *against the government*. It would be unnecessary and silly indeed to assert, in a constitution of government, the natural right of individuals to protect their property against thieves and robbers.

The constitutions of New Hampshire and Tennessee also declare that "The doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind."

The legal effect of these constitutional recognitions of the right of individuals to defend their property, liberties, and lives, against the government, is to legalize resistance to all injustice and oppression, of every name and nature whatsoever, on the part of the government.

But for this right of resistance, on the part of the people, all governments would become tyrannical to a degree of which few people are aware. Constitutions are utterly worthless to restrain the tyranny of governments, unless it be understood that the people will, by force, compel the government to keep within the constitutional limits. Practically speaking, no government knows any limits to its power, except the endurance of the people. But that the people are stronger than the government, and will resist in extreme cases, our governments would be little or nothing else than organized systems of plunder and oppression. All, or nearly all, the advantage there is in fixing any constitutional limits to the power of a government, is simply to give notice to the government of the point at which it will meet with resistance. If the people are then as good as their word, they may keep the government within the bounds they have set for it: otherwise it will disregard them — as is proved by the example of all our American governments, in which the constitutions have all become obsolete, at the moment of their adoption, for nearly or quite all purposes except the appointment of officers, who at once become practically absolute, except so far as they are restrained by the fear of popular resistance.

The bounds set to the power of the government by the trial by jury, as will hereafter be shown, are these — that the government shall never touch the property, person, or natural or civil rights of an individual, against his consent (except for the purpose of bringing them before a jury for trial,) unless in pursuance and execution of a judgment, or decree, rendered by a jury in each individual case, upon such evidence, and such laws as are satisfactory to their own understandings and consciences, irrespective of all legislation of the government.

A-20 The Arizona Republic Phoenix, Sunday, Oct. 6, 1974

Abortions reportedly cost Medicaid $50 million

Associated Press

WASHINGTON (AP) — Medicaid, using federal and state funds, is paying up to $50 million each year to finance more than 250,000 abortions, a Department of Health, Education and Welfare memorandum discloses.

Using figures from seven states, Dr. Louis Hellman, HEW's deputy assistant secretary for population affairs, projected that Medicaid is financing between 222,000 and 278,000 abortions annually.

He said approximately 800,000 legal abortions were performed in 1973 and an estimated 25 per cent involved people who used Medicaid to pay for the operations, at an average cost of $180 each.

Hellman said the abortions saved public funds.

"You would have to figure out what would happen to these women if they couldn't get abortions," he said.

The memorandum states that "for each pregnancy among Medicaid eligible women that is brought to term, it is estimated that the first-year cost to federal, state and local governments for maternity and pediatric care and public assistance is approximately $2,200."

The memorandum was prepared for the Senate Appropriations Committee, which is evaluating the impact of an amendment to the HEW appropriations bill. The amendment, sponsored by Sen. Dewey F. Bartlett, R-Okla., would cut off abortion funding except when it is needed to save the mother's life.

"The Supreme Court ruled that a mother has the legal right to obtain an abortion," Bartlett said. "However, the court certainly did not require Congress to pay for it."

Federal support for Medicaid, paid through the HEW appropriation, varies among states. It pays a minimum of 50 per cent and a maximum of 83 per cent of medicaid costs. The largest amounts go to the poorest states.

to the Best of my knowledge the States spend on 1975 went at least part to finance Abortion, this is a grave violation of my

Some of the Books, Pamphlets, Articles, etc. which I have read, or heard about, and which I also rely upon for my position in this regard, include:

Summa Theologica St Thomas Aq

THE BIG BLUFF
TEA PARTY 1976
by Marvin Cooley
THE GREAT TAX FRAUD
TAX REVOLT, USA
THE FEDERAL RESERVE AND OUR MANIPULATED DOLLAR
by Dr. Martin A. Larson
AN ESSAY ON THE TRIAL BY JURY
by Lysander Spooner
THE CAT IN THE BAG
by Eugene May
THE LAW
by Frederic Bastiat
GOVERNMENT OF LAW--NOT MEN
by Claire Kelley
MONEY AND TAXES
a Legal Brief by Jack Fenn and John Schmidt
TYRANNY IN THE IRS
THE TRAGIC CASE OF JOHN J. HAFER
from the August, 1967 and January 1969 issues of READERS' DIGEST
A SOUND MONETARY SYSTEM
by Merritt Newby in AMERICAN CHALLENGE
THE BANKERS' CONSPIRACY
by Arthur Kitson
THE LEGALIZED CRIME OF BANKING
by Silas W. Adams
THE FEDERAL RESERVE SYSTEM: LEGAL OR ILLEGAL?
by W. J. Davis
MONEY CREATORS
by Gertrude M. Coogan
THE FEDERAL RESERVE SYSTEM
by Silas W. Adams
THE STORY OF OUR MONEY
by Olive C. Dwinell
MAGIC OF RESERVE BANKING
by Peter Cook
THE FEDERAL RESERVE AFTER FIFTY YEARS
by Dr. Russell Lee Norburn
LINCOLN MONEY MARTYRED
by Dr. R. E. Search
LIGHTNING OVER THE TREASURY BUILDING
by John R. Elson
CONGRESSMAN MCFADDEN ON THE FEDERAL RESERVE CORPORATION
by Congressman Louis T. McFadden
THE FEDERAL RESERVE CONSPIRACY
by Eustace Mullins
CONQUEST OR CONSENT
by B. Vennard, Sr.
THE COLLECTIVE SPEECHES OF CONGRESSMAN LOUIS T. McFADDEN
by Congressman Louis T. McFadden
BANKING AND CURRENCY AND THE MONEY-TRUST
by Charles A. Lindbergh, Sr.
YOUR COUNTRY AT WAR
by Charles A. Lindbergh, Sr.
THE ECONOMIC PINCH
by Charles A. Lindbergh, Sr.

THE FEDERAL RESERVE BANKER
by Congressman F. H. Shoemaker

THE UNITED STATES TREASURY SYSTEM
by Silas W. Adams

THE INVISIBLE GOVERNMENT
by Dan Smoot

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American Bar Association Foundation

STAY TUNED FOR THE NEXT DEPRESSION
by Bill Dobslaw
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by Robert Preston
WAKE UP AMERICA
by Robert Preston
NONE DARE CALL IT CONSPIRACY
by Gary Allen
1969 EDITION OF FEDERAL RESERVE-- IT'S PURPOSE AND FUNCTION
FEDERALIST PAPERS
by Madison, Jay and Hamilton
THE NAKED CAPITALIST
by Cleon Skousen
TRAGEDY AND HOPE
by Carroll Quigley
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by Marvin Cooley
CIVIL RIGHTS PACKET
by W. Vaughn Ellsworth
INCOME TAX--ROOT OF ALL EVIL
by Frank Chodorov and its introduction
by former Governor J. Bracken Lee
PAWNS IN THE GAME
by Wm. Guy Gar-
THE GRAND INCENDIARY
by Paul Lewis
KARL MARX--CAPITALIST
by June Crem
WRITINGS OF THOMAS JEFFERSON
THE FEDERAL RESERVE BANKER--THE GREATEST STEAL IN AMERICAN HISTORY
by Congressman Francis H. Shoemaker
CHRONOLOGICAL HISTORY OF UNITED STATES MONEY
by Wickliffe B. Vennard, Sr.
50 YEARS OF TREASON in 100 ACTS
by Wickliffe B. Vennard, Sr.
THE CHRONOLOGICAL HISTORY OF MONEY SINCE BABYLON
by Wickliffe B. Vennard, Sr.
NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES
THE STORY OF MONEY
by Oliver Cushing Dwinell
PROOFS OF A CONSPIRACY
by John Robison
MAGNA CARTA, DECLARATION OF INDEPENDENCE, CONSTITUTION OF THE UNITED STATES, THE HOLY BIBLE, DECLARATION OF THE NECESSITY OF TAKING UP ARMS OF THE CONTINENTAL CONGRESS: US NEWS AND WORLD REPORT of September 17, 1973.

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 29, 1979

The sixty-seventh meeting of the Senate Judiciary Committee was called to order in room 331 of the capitol building by Senator Everett R. Lensink on the above date at 2:35 p.m.

DISPOSITION OF HOUSE JOINT RESOLUTION 44:

Senator Towe moved that the bill be amended on page 3, line 18 by striking "liquor" and inserting "investigation". The motion carried unanimously.

Senator Linsink noted on page 2, line 20 that it should be 42-2-212. Senator Towe moved that the bill be amended to correct this. The motion carried unanimously.

Senator Anderson moved that this bill be concurred in, as amended. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 461:

Senator Towe moved that the bill be amended on page 8, line 20, strike "or verify" and insert "or". The motion carried.

Senator Turnage stated that he thought the Department of Revenue is overreacting to this group of people we had in here.

Senator Towe said that he did not have much sympathy for these people that call themselves fifth amenders, but he does have sympathy with the tax protestors - he said that there are some people who have reason to want to challenge the tax laws and we should not give so much authority for the department to come down on them.

Senator Brown said you are not talking about some little innocent guy, they thumb their noses at the Department of Revenue and he did not feel that we should legitimize this type of conduct.

Senator Galt said they got this fellow, convicted him, sent him to jail, got his property and wondered what do they need more for.

Senator Brown said there is a small distinction between the white-collar crime and the real criminal.

There was further discussion and Senator Brown said it is the end result that counts and why can't he pick and chose what other laws he wants to obey.

Senator Olson said that if we allow the objectors to not pay their taxes, in a number of years, we will have a plethora of objectors.

Senator Turnage said going after sparrows with an anti-aircraft gun is wrong and compared this to people who were stealing water from the well and the others poisoned the water in the well. He said that he had no problem with lengthening it to five years and staying with a misdemeanor. Senator Turnage moved that the bill be amended by striking sections 3 and 4 in their entirety. The motion carried.

Senator Towe moved on page 8, lines 17, 18 and 19, that the bill be amended by reinserting all the striken material and further amend on line 20, following "render" insert "or" and following "sign" strike "or verify" and on page 8, lines 23 and 24, insert all striken material and on lines 22, following "who" insert "purposely and knowingly". Senator Van Valkenburg questioned striking the word "knowingly" and Senator Towe said an easy solution would be to say "purposely evades any tax" and so moved. The motion carried with Senators Brown and Van Valkenburg voting no.

Senator Towe moved to amend on page 9, lines 13 through 21 by striking the material in its entirety; and on lines 22, by striking "certificate of" and inserting "evidence produced by". Senator Van Valkenburg moved to amend the bill on page 9, line 22, insert "with respect to the imposition of a civil penalty". The motion carried with Senator Brown voting no.

Senator Towe moved that the bill be amended by striking section 6 in its entirety; and further amend on page 10,

lines 3, 4, and 5, following "venue" strike all the material through 5 and insert "venue of prosecution under 15-30-321 is in the district court of the county of the defendant's residence and if the defendant is not a resident of the state of Montana, venue is in the district court of Lewis and Clark County. The motion carried unanimously.

Senator Turnage asked if we should do anything about when the offense is committed. Senator Van Valkenburg said this may have affected venue in some cases that are already on file.

Senator Towe moved to amend the bill on page 10, line 15 following "approval", insert "but shall have no effect on prosecutions commenced prior to the effective date of this act. The motion carried unanimously.

Senator Towe moved that on page 4, lines 15 and 16, the bill be amended by reinserting the striken material and on line 25, following "return" insert "with the intent to evade the tax". The motion carried with Senator Brown voting no.

Senator Olson moved to amend the bill on page 4, line 15, by striking "5" and inserting "3". He withdrew his motion.

Senator Towe moved on page 7 and the top of page 8 and then withdrew his motion.

Senator Van Valkenburg moved that Joan Mayer from the Legislative Council be authorized to change the title to conform to the amendments. The motion carried unanimously.

Senator Turnage moved that this bill be concurred in, as amended. The motion carried with Senator O'Hara voting no.

There being no further business, the meeting was adjourned at 3:26 p.m.

SENATOR EVERETT R. LENSINK, Chairman
Senate Judiciary Committee.

HB 461

1. Title, lines 5 and 6.
Strike: "AND PENALTIES"

2. Title, lines 8 and 9.
Strike: "PROVIDING THAT AN ATTEMPT TO EVADE TI
TAX IS A FELONY;"

3. Title, lines 9 and 10.
Strike: "IN LEWIS AND CLARK COUNTY"

4. Title, line 12.
Strike: "15-30-209, 15-30-224,"

5. Page 4, line 14.
Following: [redacted] "who"
Insert: "with intent to evade the tax,"

6. Page 4, line 24.
Following: [redacted] "who"
Insert: ", with intent to evade the tax,"

7. Page 5, line 15 through line 7 on page 7.
Strike: sections 3 and 4 in their entirety
" [illegible] all subsequent sections

8. Page 8, line 17.
Following: "who"
Insert: ", with intent to evade any tax or any requirement of this chapter or any lawful requirement of the department thereunder,"

9. Page 8, line 20.
Following: "render,"
Insert: "or"
Following: "sign"
Strike: ", or verify"

10. Page 8, line 22.
Following: "chapter"
Insert: "or who, with like intent, purposely or knowingly makes, renders, signs any false or fraudulent return or statement or supplies any false or fraudulent information"

11. Page 9, lines 13 through 22.
Strike: line 13 through "(5)" on line 22

12. Page 9, line 22.
Following: "(5)"
Strike: "The certificate of"
Insert: "With respect to the imposition of a civil penalty, evidence produced by"

13. Page 10, line 3.
Following: "Venue."
Strike: "A"
Insert: "Venue for a"

14. Page 10, lines 3 and 4.
Strike: "of an offense"

15. Page 10, line 4.
Following: "15-30-301"
Strike: "must be tried"
Insert: "is in the district court of the county of the defendant's residence. If the defendant is not a resident of Montana, venue is"

16. Page 10, line 14.
Following: "date"
Insert: "-- applicability"

17. Page 10, line 15.
Following: "approval"
Insert: "but has no effect on prosecutions commenced prior to the effective date of this

STANDING COMMITTEE REPORT

March 30 19 79

MR. President

We, your committee on Judiciary

having had under consideration House Bill No. 461

Respectfully report as follows: That House Bill No. 461,

third reading bill, be amended as follows:

1. Title, lines 5 and 6.
Strike: "AND PENALTIES"

2. Title, lines 8 and 9.
Strike: "PROVIDING THAT AN ATTEMPT TO EVADE THE TAX IS A FELONY;"

3. Title, lines 9 and 10.
Strike: "IN LEWIS AND CLARK COUNTY"

4. Title, line 12.
Strike: "15-30-209, 15-30-224,"

5. Page 4, line 14.
Following: "who"
Insert: ", with intent to evade the tax,"

~~XXXXXX~~
~~DO PASS~~

(Continued)

Chairman.

STATE PUB. CO.
Helena, Mont.

6. Page 4, line 24.
Following: "who"
Insert: ", with intent to evade the tax,"

7. Page 5, line 18 through line 7 on page 7.
Strike: sections 3 and 4 in their entirety
Renumber: subsequent sections.

8. Page 8, line 17.
Following: "who"
Insert: ", with intent to evade any tax or any requirement of this chapter or any lawful requirement of the department thereunder,"

9. Page 8, line 20.
Following: "render,"
Insert: "or"
Following: "sign"
Strike: ", or verify"

10. Page 8, line 22.
Following: "chapter"
Insert: "or who, with like intent, purposely or knowingly makes, renders, or signs any false or fraudulent return or statement or supplies any false or fraudulent information"

11. Page 9, lines 13 through 22.
Strike: line 13 through "(5)" on line 22

12. Page 9, line 22.
Following: "(5)"
Strike: "The certificate of"
Insert: "With respect to the imposition of a civil penalty, evidence produced by"

13. Page 10, line 3.
Following: "Venue."
Strike: "A"
Insert: "Venue for a"

14. Page 10, lines 3 and 4.
Strike: "of an offense"

15. Page 10, line 4.
Following: "15-30-321"
Strike: "must be tried"
Insert: "is in the district court of the county of the defendant's residence. If the defendant is not a resident of Montana, venue i

16. Page 10, line 14.
Following: "date"
Insert: "-- applicability"

(Continued)

Chairman.

March 30 19 79

17. Page 10, line 15.
Following: "approval"
Insret: "but has no effect on prosecutions commenced prior to the effective date of this act"

And, as so amended,
BE CONCURRED IN

Chairman.

STATE PUB. CO.
Helena, Mont.

HB 0461/04

HOUSE BILL NO. 461

INTRODUCED BY BERTELSEN

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS ~~AND PENALTIES~~ RELATING TO THE COLLECTION OF THE INDIVIDUAL INCOME TAX; ADOPTING 'PURPOSELY' AND 'KNOWINGLY' AS THE REQUIRED MENTAL STATE; ~~PROVIDING THAT AN ATTEMPT TO EVADE THE TAX IS A FELONY; SETTING VENUE FOR ALL PROSECUTIONS IN LEWIS AND CLARK COUNTY;~~ PROVIDING FOR A PERIOD OF LIMITATION FOR PROSECUTION; AMENDING SECTIONS 15-30-101, 15-30-145, ~~15-30-209, 15-30-224,~~ AND 15-30-321, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-101, MCA, is amended to read:

"15-30-101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Department" means the department of revenue.

(2) "Dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends as herein defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(3) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

(4) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

(5) "Information agents" include all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

[6) "Knowingly" is as defined in 45-2-101.

~~(6)~~[7] "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

~~(7)~~[8] "Paid", for the purposes of the deductions and

The Conference Comm. Amendment dated 4/16 is on P./
Please insert this page in Original Ref. Copy.

credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(9) "Purposely" is as defined in 45-2-101.

~~(8)~~(10) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(9)~~(11) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

~~(10)~~(12) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(11)~~(13) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(12)~~(14) "Taxpayer" includes any person or fiduciary,

resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

Section 2. Section 15-30-145, MCA, is amended to read:

"15-30-145. Revision of return by department -- examination of records and persons. (1) If, in the opinion of the department, any return of a taxpayer is in any essential respect incorrect, it may revise such return. If any taxpayer fails to make return as herein required, the department is authorized to make an estimate of the taxable income of such taxpayer from any information in its possession and to audit and state an account according to such return or the estimate so made by it for the taxes, penalties, and interest due the state from such taxpayer. Except in the case of ~~wilfully~~ a person who, WITH INTENT TO EVADE THE TAX, purposely or knowingly files a false or fraudulent return ~~with intent to evade the tax~~ violating the provisions of this chapter, the amount of tax due under any return shall be determined by the department within 5 years after the return was made and the department thereafter shall be barred from revising any such returns or recomputing the tax due thereon, and no proceeding in court for the collection of such tax shall be instituted after the expiration of said period, notwithstanding the provisions of 15-30-322. In the case of a ~~wilfully~~ person who, WITH INTENT TO EVADE THE TAX, purposely or knowingly files a

false or fraudulent return violating the provisions of this chapter, the amount of tax due may be determined at any time after the return is filed and the tax may be collected at any time after it becomes due and, where no return has been filed, the tax may be assessed at any time.

(2) The department, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of taxable income of any person where information has been obtained, may also examine or cause to have examined by any agent or representative designated by it for that purpose any books, papers, or records of memoranda bearing upon the matters required to be included in the return and may require the attendance of the person rendering the return or any officer or employee of such person or the attendance of any person having knowledge in the premises and may take testimony and require proof material for its information, with power to administer oaths to such person or persons."

~~Section 3. Section 15-30-209, MCA, is amended to read:~~

~~"15-30-209. Violations -- by employer ----- penalties and remedies. (1) If any employer shall fail to pay over to the state the tax deducted and withheld under the provisions of 15-30-201 through 15-30-208 or shall fail to file or furnish any statement provided for within the time prescribed therefor, the same additions to the amount of such tax shall~~

~~be imposed and added as those specified in 15-30-321, as amended, with respect to failure to make a return of income or to pay any income tax, and any individual, corporation, or partnership or any officer or employee thereof who, with intent to evade any tax or any requirement of 15-30-201 through 15-30-208, or who, with like intent, files or supplies any false or fraudulent statement or information shall be liable to the same penalties as those imposed by 15-30-321, as amended, with respect to filing or supplying any false or fraudulent statement or information with respect to income taxes.~~

~~(2) All of the remedies available to the state for the administration, enforcement, and collection of income taxes shall be available and shall apply to the tax required to be deducted and withheld under the provisions of 15-30-201 through 15-30-208."~~

~~Section 4. Section 15-30-224, MCA, is amended to read:~~

~~"15-30-224. Failure to withhold or pay ------ penalties. If any withholding agent knowingly fails to withhold or pay to the department any sums required to be withheld and paid by 15-30-221 through 15-30-228 or any order made pursuant to 15-30-221 through 15-30-228, the same additions to the amount of such tax shall be imposed and added as those specified in 15-30-321, as amended, with respect to failure to make a return of income or to pay any income tax. Any~~

~~individual,--corporation,--or--partnership-or-any-officer-or employee-thereof-who,-with-intent-to-evade-any--tax--or--any requirement--of--15-30-221--through--15-30-228,-or-who,-with like-intent,-files--or--supplies--any--false--or--fraudulent statement--or--information--shall--be--liable--to--the--same penalties-as-those-imposed-by-15-30-321,--as--amended,--with respect--to--filing--or--supplying--any--false-or-fraudulent statement-or-information-with-respect-to-income-taxes."~~

Section 3. Section 15-30-321, MCA, is amended to read:

"15-30-321. Penalties for violation of chapter. (1) If any person, ~~without intent to evade~~ purposely or knowingly violating any tax requirement imposed by this chapter, fails to file a return of income on or before its due date (determined with regard to an extension of time granted for filing the return), there shall be imposed a penalty of 5% of any balance of tax unpaid with respect to such return as of its due date, but in no event shall the penalty for failure to file a return by its due date be less than $5. The department may abate the penalty if the taxpayer establishes that the failure to file on time was due to reasonable cause and was not due to neglect on his part. If any person, ~~without intent to evade~~ purposely or knowingly violating any tax requirement imposed by this chapter, fails to pay any tax on or before its due date (determined with regard to an extension of time granted for the filing of a

return), there shall be added to the tax a penalty of 10% of said tax, but not less than $5, and interest shall accrue on the tax at the rate of 9% per annum for the entire period it remains unpaid. The department may abate the penalty if the taxpayer establishes that the failure to pay on time was due to reasonable cause and was not due to neglect on his part.

(2) If any person fails, ~~with intent to evade~~ purposely or knowingly violating any tax requirement imposed by this chapter, to make a return of income or to pay a tax if one is due at the time required by or under the provisions of this chapter, there shall be added to the tax an additional amount equal to 25% thereof, but such additional amount shall in no case be less than $25, and interest at 1% for each month or fraction of a month during which the tax remains unpaid.

(3) Any individual, corporation, or partnership or any officer or employee of any corporation or member or employee of any partnership ~~who, with intent to evade any tax or any requirement of this chapter or any lawful requirement of the department thereunder,~~ WITH INTENT TO EVADE ANY TAX OR ANY REQUIREMENT OF THIS CHAPTER OR ANY LAWFUL REQUIREMENT OF THE DEPARTMENT THEREUNDER, purposely or knowingly, fails to pay the tax or to make, render, OR ~~sign or verify~~ any return or to supply any information within the time required by or under the provisions of this chapter ~~or who, with like~~

~~intent, makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information~~ OR WHO, WITH LIKE INTENT, PURPOSELY OR KNOWINGLY MAKES, RENDERS, OR SIGNS ANY FALSE OR FRAUDULENT RETURN OR STATEMENT OR SUPPLIES ANY FALSE OR FRAUDULENT INFORMATION shall be liable to a penalty of not more than $1,000, to be recovered by the attorney general in the name of the state by action in any court of competent jurisdiction, and shall also be guilty of a misdemeanor and shall upon conviction be fined not to exceed $1,000 or be imprisoned ~~in the county jail~~ not to exceed 1 year, or both, at the discretion of the court.

~~(4) The certificate of the department to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied as required by or under the provisions of this chapter shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied. An individual, corporation, or partnership or an officer or employee of a corporation or a member or employee of a partnership who purposely or knowingly attempts in any manner to evade or defeat a tax imposed by this chapter or the payment thereof, in addition to other penalties provided by law, guilty of a felony and upon conviction thereof is punishable by a fine not to exceed $5,000 or by imprisonment for a term not to exceed 5 years, or by both such fine and imprisonment.~~

~~(5)~~ THE CERTIFICATE OF WITH RESPECT TO THE IMPOSITION OF A CIVIL PENALTY, EVIDENCE PRODUCED BY the department to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied as required under the provisions of this chapter is prima facie evidence that the tax has not been paid, the return has not been filed, or the information has not been supplied."

NEW SECTION. Section 4. Venue. A VENUE FOR A prosecution ~~of an offense~~ under 15-30-321 ~~must be tried~~ IS IN THE DISTRICT COURT OF THE COUNTY OF THE DEFENDANT'S RESIDENCE. IF THE DEFENDANT IS NOT A RESIDENT OF MONTANA, VENUE IS in the district court for Lewis and Clark County.

NEW SECTION. Section 5. Time limitations for prosecution. A prosecution for an offense under 15-30-321 ~~is subject to the following periods of limitation:~~

~~(1) A prosecution for a misdemeanor must be commenced within 5 years after the offense is committed.~~

~~(2) A prosecution for a felony must be commenced within 10 years after the offense is committed.~~ MUST BE COMMENCED WITHIN 5 YEARS AFTER THE OFFENSE IS COMMITTED.

Section 6. Effective date -- APPLICABILITY. This act is effective on passage and approval BUT HAS NO EFFECT ON PROSECUTIONS COMMENCED PRIOR TO THE EFFECTIVE DATE OF THIS ACT.